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AMENDING THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT TO REVISE AND EXTEND SUCH ACT

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Mr. INOUYE, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 87]

The Committee on Indian Affairs, to which was referred the bill (S. 87) to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE

The purpose of S. 87, a bill to provide for the reauthorization of the Native Hawaiian Health Care Improvement Act, is to improve the health status of Native Hawaiians through the continuation of a comprehensive health promotion and disease prevention effort that involves health education in Native Hawaiian communities, and the provision of primary care health services using traditional native Hawaiian healers and health care providers trained in Western medicine. In areas where there is an underutilization of existing health care delivery systems that have the capacity to provide culturally-relevant health care services, S. 87 provides authority for the Secretary of the Department of Health and Human Services to enter into contracts with Native Hawaiian health care systems to provide health care referral services to Native Hawaiian patients. S. 87 is intended to assure the continuity of the health care programs that are provided to Native Hawaiians under the authority of Public Law 100–579.

As enacted in 1988, the Native Hawaiian Health Care Improvement Act is premised upon the findings and recommendations of the Native Hawaiian Health Research Consortium report to the

Secretary of the Department of Health and Human Services of December, 1985. That report clearly indicates that the underutilization of existing health care services by Native Hawaiians can be traced to the absence of culturally-relevant services in which traditional Native Hawaiian concepts of healing are lacking, as well as to a general perception in the native Hawaiian community that health care services, which are fundamentally based on concepts of western medicine, will not effect the healing or cure of diseases and illnesses afflicting Native Hawaiian people.

HISTORICAL BACKGROUND

The islands that now compose the State of Hawai'i were governed by a monarchy of Native Hawaiians until 1893. The Native Hawaiian government was recognized as an independent sovereign nation by foreign governments, and treaty relationships were established with the United States (Treaty of Friendship, Commerce, and Navigation of 1849; Treaty of Commercial Reciprocity, January 30, 1875.) Expanded trade with the United States resulted in increased western influence in the islands, and in 1893, the government of Queen Liliuokalani was overthrown in an insurrection engineered by a group of western businessmen in an effort to secure the annexation of Hawai'i to the United States. The United States minister in Hawai'i ordered one company of marines and two companies of sailors to be landed, and the minister then recognized a new provisional government even before Queen Liliuokalani's lines of defense had surrendered. Although the provisional government sought immediate annexation by the United States, President Grover Cleveland refused to submit a treaty of annexation to the Senate, finding that the provisional government lacked the popular support of the Native Hawaiian population and that the government would not have been established but for the lawless and unauthorized military intervention of the United States. Upon the inauguration of William McKinley as the new President of the United States in 1897, however, the western businessmen that sought annexation were able to change the official U.S. position, and in 1898, Hawai'i became a territory of the United States.

During the first two decades of the twentieth century, the already depressed economic conditions of Native Hawaiians deteriorated further. In response the United States Congress in 1920 legislated directly to benefit Native Hawaiians by enacting the Hawaiian Homes Commission Act, and establishing a land base for Native Hawaiians to provide a permanent homeland and to encourage agricultural pursuits. The Act placed approximately 200,000 acres under the jurisdiction of the Hawaiian Homes Commission, a branch of the territorial government established for the purpose of "rehabilitating" persons of at least fifty percent Native Hawaiian ancestry through a return to pastoral life. The Act also authorized the Commission to undertake "activities having to do with the economic and social welfare of the homesteaders."

Hawai'i became a state in 1959. Under the Admissions Act, the title of the Hawaiian home lands (that the Hawaiian Homes Commission administered) was transferred from the Federal government to the State of Hawai'i. The Admissions Act requires the State to hold the lands "as a public trust * * * for the betterment of the conditions of Native Hawaiians * * * and their use for any

other object shall constitute a breach of trust for which suit may be brought by the United States."

BACKGROUND

Language contained in the 1984 Supplemental Appropriations Act, Public Law 98–396, directed the Department of Health and Human Services to conduct a comprehensive study of the health care needs of Native Hawaiians. The study was conducted under the aegis of Region IX of the Department by a consortium of health care providers and professionals from the State of Hawai'i in a predominantly volunteer effort, organized by Alu Like, Inc., a Native Hawaiian organization. An island-wide conference was held in November of 1985 in Honolulu to provide an opportunity for members of the Native Hawaiian community to review the study's findings. Recommended changes were incorporated in the final report of the Native Hawaiian Health Research Consortium, and the study was formally submitted to the Department of Health and Human Services in December of 1985. The Department submitted the report to the Congress on July 21, 1986, and the report was referred to the Select Committee on Indian Affairs.

Because the Consortium's report's findings as to the health status of Native Hawaiians was compared only to other populations within the State of Hawai'i, the Select Committee requested that the Office of Technology Assessment (OTA), an independent agency of the Congress, undertake an analysis of Native Hawaiian health statistics as they compared to national data in other United States populations. Using the same population projection model that was employed in OTA's April 1986 report on Indian Health Care to American Indian and Alaska Native populations, and based on additional information provided by the Department of Health and the Office of Hawaiian Affairs of the State of Hawai'i, the Office of Technology Assessment report contains the following findings:

"The Native Hawaiian population living in Hawai'i consists of two groups, Hawaiians and part-Hawaiians, who are distinctly different in both age distributions and mortality rates. Hawaiians comprise less than five percent of the total Native Hawaiian population and are much older than the young and growing part-Hawaiian populations.

Overall, Native Hawaiians have a death rate that is thirty-four percent higher than the death rate for the United States all races, but this composite masks the great differences that exist between Hawaiians and part-Hawaiians. Hawaiians have a death rate that is 146 percent higher than the U.S. all races rate. Part-Hawaiians also have a higher death rate, but only 17 percent greater. A comparison of age-adjusted death rates for Hawaiians and part-Hawaiians reveals that Hawaiians die at a rate 110 percent higher than part-Hawaiians, and this pattern persists for all except one of the 13 leading causes of death that are common to both the groups.

As in the case of the U.S. all races population, Hawaiian and part-Hawaiian males have higher death rates than their female counterparts. However, when Hawaiian and part-Hawaiian males and females are compared to their U.S. all races counterparts, females are found to have more excess deaths than males. Most of these excess deaths are accounted for by diseases of the heart and

cancers, with lesser contributions from cerebrovascular diseases and diabetes mellitus.

Diseases of the heart and cancers account for more than half of all deaths in the U.S. all races population, and this pattern is also found in both the Hawaiian and part-Hawaiian populations, whether grouped by both sexes or by male or female. However, Hawaiians and part-Hawaiians have significantly higher death rates than their U.S. all races counterparts, with the exception of part-Hawaiian males, for whom the death rate from all causes is approximately equal to that of U.S. all races males.

One disease that is particularly pervasive is diabetes mellitus, for which even part-Hawaiian males have a death rate 128 percent higher than the rate for U.S. all races males. Overall, Native Hawaiians die from diabetes at a rate that is 222 percent higher than for the U.S. all races. When compared to their U.S. all races counterparts, deaths from diabetes mellitus range from 630 percent higher for Hawaiian females and 538 percent higher for Hawaiian males, to 127 percent higher for part-Hawaiian females and 128 percent higher for part-Hawaiian males."

There is thus little doubt that the health status of Native Hawaiians is far below that of other U.S. population groups, and that in a number of areas, the evidence is compelling that Native Hawaiians constitute a population group for whom the mortality rate associated with certain diseases exceed that for other U.S. populations in alarming proportions.

Native Hawaiians premise the high mortality rates and the incidence of disease that far exceed that of other populations in the United States upon the breakdown of the Hawaiian culture and belief systems, including traditional healing practices, that was brought about by western settlement, and the influx of western diseases to which the native people of the Hawaiian Islands lacked immune systems. Further, Native Hawaiians predicate the high incidence of mental illness and emotional disorders in the Native Hawaiian population as evidence of the cultural isolation and alienation of the native peoples, in a statewide population in which they now constitute only twenty percent. Settlement from both the east and the west have not only brought new diseases which decimated the Native Hawaiian population, but which devalued the customs and traditions of Native Hawaiians, and which eventually resulted in Native Hawaiians being prohibited from speaking their native tongue in school and in many instances not at all.

In 1998, Papa Ola Lokahi updated the health care statistics from the original E Ola Mau report. Additionally Papa Ola Lokahi extrapolates the data that the Hawai'i State Department of Health annually gathers on Native Hawaiians from the Department's behavioral risk assessment and health surveillance survey. The findings from those assessments revealed that—

With respect to cancer, Native Hawaiians have the highest cancer mortality rates in the State of Hawai'i (231 out of every 100,000 residents), 45 percent higher than that for the total State population. Native Hawaiian males have the higher cancer mortality rates in the State of Hawai'i for cancers of the lung, liver, pancreas and for all cancers combined, and the highest years of productive life lost from cancer in the State of Hawai'i. Native Hawaiian females ranked highest in the State of Hawai'i for cancers of the

lung, liver, pancreas, breast, cervix uterus, corpus uterus, stomach, rectum, and for all cancers combined.

With respect to breast cancer, Native Hawaiians have the highest mortality rates in the State of Hawai'i, and nationally Native Hawaiians have the third highest mortality rates due to breast cancer. Native Hawaiians have the highest mortality rates from cancer of the cervix and lung cancer in the State of Hawai'i and Native Hawaiian males have the second highest mortality rates due to prostate cancer in the State.

For the years 1989 through 1991, Native Hawaiians had the highest mortality ate due to diabetes mellitus in the State of Hawai'i, with full-blood Hawaiians having a mortality rate that is 518 percent higher than the rate for the statewide population of all other races, and Native Hawaiians who are less than full-blood having a mortality rate that is 79 percent higher than the rate for the statewide population of all other races.

In 1990, Native Hawaiians represented 44 percent of all asthma cases in the State of Hawai'i for those 18 years of age and younger, and 35 percent of all asthma cases reported, and in 1992, the Native Hawaiian rate for asthma was 73 percent higher than the rate for the total statwide population.

With respect to heart disease, the death rate for Native Hawaiians in 66 percent higher than for the entire State of Hawai'i, and Native Hawaiian males have the greatest years of productive life lost in the State of Hawai'i. The death rate for Native Hawaiians from hypertension is 84 percent higher than that for the entire State, and the death rate from stroke for Native Hawaiians is 13 percent higher than for the entire State.

Native Hawaiians have the lowest life expectancy of all populations groups in the State of Hawai'i. Between 1910 and 1980, the life expectancy of Native Hawaiians from birth has ranged from 5 to 10 years less than that of the overall State population average, and the most recent data for 1990 indicates that Native Hawaiian life expectancy at birth is approximatley 5 years less than that of the total State population.

With respect to prenatal care, as of 1996, Native Hawaiian women have the highest prevalence of having had no prenatal care during their first trimester of pregnancy, representing 44 percent of all such women statewide. Over 65 percent of the referrals to Healthy Start in fiscal year 1996 and 1997 were Native Hawaiian newborns, and in very region of the State of Hawai'i, many Native Hawaiian newborns begin life in a potentially hazardous circumstance.

In 1996, 45 percent of the live births to Native Hawaiians mothers were infants born to single mothers. Statistics indicated that infants born to single mothers have a higher risk of low birth weight and infant mortality. Of all low birth weight babies born to single mothers in the State of Hawai'i, 44 percent were Native Hawaiians.

In 1996, Native Hawaiian fetal mortality rates comprised 15 percent of all fetal deaths for the State of Hawai'i. Thirty-two percent of all fetal deaths occurring in mothers under the age of 18 years were Native Hawaiians, and for mothers 18 through 24 years, 28 percent were Native Hawaiians.

These and other health status statistics contained in the findings section of S. 87 make clear that the health care challenges that the Native Hawaiian health care systems were established to address require reauthorization of the Native Hawaiian Health Care Improvement Act.

NATIVE HAWAIIAN HEALTH CARE MASTER PLAN AND NATIVE HAWAIIAN HEALTH CARE SYSTEMS

The concepts embodied in S. 87 are the result of the Committee's work with Native Hawaiian health care professionals and others who are dedicated to improving the health status of Native Hawaiians. It is based on the beliefs of those with whom the Committee has consulted, that to insure that Native Hawaiians are able to achieve the healthful harmony of the self (body, mind, and spirit) of *lokahi,* with others and all of nature, and to assure that Native Hawaiians are able to function effectively as citizens and leaders in their own homeland, there must be a restoration of cultural traditions, an integration of traditional healing methods in the health care delivery system, and a collective effort to restore to the Native Hawaiian, a sense of self-esteem and self-worth, for his or her culture, as well as for the individual.

E Ola Mau, a group of Native Hawaiian health care professionals, proposed that this effort begin with the development of a health care master plan, based on a biopsycho-socio-cultural-political model that would be aimed at identifying significant events and factors related to specific health care needs and issues. E Ola Mau proposed that this master plan be implemented at every societal level (individual, household, community, county, and state) in the Hawaiian Islands. It is their goal to have this Native Hawaiian way of dealing with health, eventually become an institutional part of the State's health policy for both Native Hawaiian and Non-Hawaiians.

After much debate and careful consideration in the Native Hawaiian community and amongst those concerned with the health status of Native Hawaiians, a consensus was reached that Papa Ola Lokahi, the Native Hawaiian Health Board, should be the mechanism through which Native Hawaiian health care systems would be developed, coordinated, administered, monitored, and continually revised to meet the changing health care needs of the Native Hawaiian population. Papa Ola Lokahi is currently composed of five organizations: (1) the Office of Hawaiian Affairs, an agency of the State which was established pursuant to the authority of amendments made to the Constitution of the State of Hawai'i in 1978 to assure the well-being and interests of Native Hawaiians; (2) E Ola Mau, a nonprofit organization of Native Hawaiian professionals dedicated to insuring that Native Hawaiians achieve a healthful harmony of self (body, mind, and spirit) with others and all of nature, and become productive citizens and leaders in their homeland; (3) Alu Like, a Federally-funded Native Hawaiian agency that promotes vocational training and the founding of community-based organizations that promote health, education, and economic development for Native Hawaiians; (4) the University of Hawai'i; and (5) the Office of Hawaiian Health within the State Department of Health.

Papa Ola Lokahi has assumed the primary responsibility of overseeing the development and maintenance of a Native Hawaiian Comprehensive Health Care Master Plan. Papa Ola Lokahi also is the entity responsible for certifying to the Secretary the qualifications and capabilities of Native Hawaiian organizations that petition the Secretary to carry out, pursuant to contracts with the Secretary, the provisions of the Act.

Public Law 100–579 authorized Papa Ola Lokahi, the Native Hawaiian Health Board, to—

(1) designate a chairman and vice-chairman from among its member organizations and such other officers as may be deemed necessary to carry out its responsibilities under the Act;

(2) adopt bylaws and such other internal regulations or procedures as may be deemed necessary to carry out its responsibilities under the Act;

(3) certify to the Secretary that a Native Hawaiian organization meets the definition of "Native Hawaiian organization" as set forth in the Act;

(4) certify to the Secretary that Native Hawaiian organization has the qualifications and capacity to provide the services or perform contract requirements pursuant to a contract with the Secretary;

(5) oversee the development of a comprehensive Native Hawaiian health care master plan;

(6) assure the conduct of health status and health care needs assessments of Native Hawaiian communities desiring to participate in Native Hawaiian health care programs; and

(7) coordinate the activities and functions of all Native Hawaiian organizations operating health care programs pursuant to contracts with the Secretary.

Public Law 100–579 envisions a comprehensive health care system that is community-based, building upon the Native Hawaiian *ohana* system[1] and incorporating traditional healing (*la'au lapa'au*) practices with western medical services to provide a health care system that will be culturally consistent and responsive to the needs of Native Hawaiian communities.

As enacted, Public Law 100–579 authorized the establishment of Native Hawaiian Healing Centers on each of the islands comprising the State of Hawai'i, upon the acceptance of and in consultation with the Native Hawaiian communities on those islands, and wherever possible, using existing health care facilities and health care providers now serving the Native Hawaiian communities on those islands. These centers were intended to lead and coordinate the development and implementation of a statewide Native Hawaiian health care system which would include: (1) a research and monitoring staff, state-certified neighborhood counselors, outreach workers and health educators, traditional Native Hawaiian healers, and Native Hawaiian cultural educators; (2) primary health care providers; (3) primary health care facilities, using

[1] The *'ohana* system is based upon the fundamental unit of societal interaction for Native Hawaiians in which a family or an organization is led by *haku* (the recognized leader), whose function is to coordinate and facilitate the expertise and resources of the various households or affiliated organizations in order to accomplish a task or resolve a problem. The households or affiliated organizations are in turn led by a *po'o* (the head of the household or designated leader of the organization).

existing health care facilities where practicable and acceptable to the local Native Hawaiian community; (4) participation by the State Department of Health, Office of Hawaiian Health in the provision of disease prevention and health promotion programs, as well as a multidisciplinary approach to Native Hawaiian health care which would include nursing, dental hygiene, nutrition education, maternal and infant child care education; and (5) other Federal, State, county, community, and private organizations and agencies that could provide services which meet the health care needs of their respective communities.

The development of the master plan by Papa Ola Lokahi was intended to include: (1) work with Native Hawaiian communities which support the establishment of a Native Hawaiian Health Center; (2) conducting a community health needs assessment survey for participating communities; (3) facilitating the development, establishment, and effective functioning of such Centers on the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i and Ni'ihau; and (4) coordinating the work of relevant agencies and organizations to provide participating communities with: (a) direct health care services and health education, including maternal and child health care and mental health care; (b) instruction in the Native Hawaiian language, cultural beliefs, and traditions with an emphasis on health concepts and practices; (c) training and education of health care providers and educators and cultural educators in health promotion and disease prevention; (d) basic and applied research and monitoring of Native Hawaiian health care approaches to validate outcomes and create standards of quality care; (e) development of health care services, training and education that would have a Native Hawaiian perspective as its primary focus; (f) development of Native Hawaiian community health counselors, outreach workers, educators, and community health aide training programs; (g) prevention-oriented health care services in medical, dental, nutrition, mental health, and in other designated areas as needs assessments may identify as necessary; (h) data collection related to prevention of diseases and illnesses among Native Hawaiians; (i) medical and general health-related research into the diseases that are most prevalent among Native Hawaiians; (j) mental health research in areas of mental health problems that are most prevalent in the Native Hawaiian population; (k) ongoing health planning for further development of the Native Hawaiian health care system; and (l) the provision of health care referral services when certain care services are not available within the Native Hawaiian Health Center.

Following enactment of the Native Hawaiian Health Care Act, the Papa Ola Lokahi Board became incorporated and began working with health care providers on each island toward the development of a master plan and an island-specific plan for the provision of primary health care and health care referral services. Those involved in the planning effort ultimately determined that the health care needs of Native Hawaiians would be better served by the establishment of five Native Hawaiian health care systems which could be composed of as many health care centers as might be necessary to serve the health care needs of Native Hawaiians on each island.

Accordingly, Papa Ola Lokahi certified to the Secretary that five health care systems qualified as Native Hawaiian Organizations for purposes of entering into contracts with the Secretary, and plans for the provision of primary health care services or health care referral services were submitted to the Secretary in 1990. The first contract awards were made in October of 1991, and the health care systems are now engaged not only in the implementation of the plans approved by the Secretary, but the provision of health care services. The plans for each health care system vary according to the availability of and access to existing health care resources on each island and the need for primary health care services. Currently, all five Native Hawaiian health care systems have become incorporated as 501(c)(3) non-profit health care organizations.

In general, the capacity to provide critical care exists only on the island of O'ahu, and thus, it has long been the pattern that if a patient requires hospitalization and complex surgery or treatment, the patient would be referred to a health care provider on the island of O'ahu. However, it is not uncommon that treatment requiring advanced medical technology must be secured in the continental United States.

The Native Hawaiian Health Care Improvement Act provides authority for the provision of health promotion, disease prevention, and primary health services to Native Hawaiians who reside in the State of Hawai'i. Federal planning funds first became available in July of 1990. However, Papa Ola Lokahi incorporated in February 1989 and was able to initiate its organizing activities in July 1989 with funds provided by the Hawai'i State legislature. Between July 1989 and December 1990, informational meetings and organizational activities took place throughout the state, resulting in the establishment or recognition of the five Native Hawaiian health care systems which would take he responsibility for providing services: (1) Ho'ola Lahui Hawai'i for Kaua'i and Ni'ihau; (2) Ke Ola Mamo for O'ahu; (3) Na Pu'uwai for Moloka'i and Lana'i (4) Hui No Ke Ola Pono for Maui; and (5) Hui Malama Ola Na 'Oiwi for Hawai'i. Papa Ola Lokahi provided planning funds and technical assistance to these five health care systems, who then developed their service plans from January through June 1991, applied for funding under the Native Hawaiian Health Care Act in July 1991, and were awarded service grants in October of 1991.

The basic set of services that all five health care systems must provide include: (1) outreach services to inform Native Hawaiians of the availability of health services; (2) education in health promotion and disease prevention of the Native Hawaiian population by Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators, whenever possible; (3) services of physicians, physician's assistants, nurse practitioners or, other health professionals; (4) immunizations; (5) prevention and control of diabetes, high blood pressure, and otitis media; (6) pregnancy and infant care; and (7) improvement of nutrition.

In the initial stages, because the five health care systems needed to gain experience in managing health services and because of limited funds, each health care system concentrated on outreach, health assessments, case management, and disease prevention and health promotion activities, with the ultimate objective of providing the full range of health and medical services that are available

through a typical primary care health center, and working with traditional healers so that their services will also be more readily available to Native Hawaiians.

Now that the five island-wide Native Hawaiian health care systems are established and engaged in the provision of health care services, Papa Ola Lokahi's role is to provide technical and training support to the five health care systems, work with the five health care systems to develop a statewide, cooperative Native Hawaiian health system, develop research activities and capacities within the five health care systems, and evaluate how well the objectives of the Native Hawaiian Health Care Act are being met.

To serve the health care needs of Native Hawaiians on the islands of Kaua'i and Ni'ihau, Ho'ola Lahui Hawai'i (to preserve the Hawaiian Race) is a nonprofit organization dedicated to elevating the health status and overall living conditions of the Native Hawaiian. Ho'ola Lahui Hawai'i has established offices in Waimea and Anahola which serve as a base from which outreach is provided to the East and West sides of Kaua'i. Service to the island of Ni'ihau is provided through the office in Waimea. Ho'ola Lahui Hawai'i is working with existing health and health-related organizations in an effort to assure access to services for Native Hawaiians that were for some reason or another inaccessible or unacceptable. Ho'ola Lahui Hawai'i is organized around the concept of lokahi (unity in all aspects of life) in which they seek to maintain a balance of body, mind, and soul. As a community-based organization which works from the ground level up, the concern of Ho'ola Lahui Hawai'i for the Native Hawaiian grows out of a shared history, for those involved in Ho'ola Lahui Hawai'i are Native Hawaiian.

At this time, Ho'ola Lahui Hawai'i provides health education and teaching on cancer, diabetes, hypertension, high cholesterol, gout, hygiene, and diet/exercise. Ho'ola Lahui Hawai'i also conducts monitoring on blood pressure, blood sugar, weight, and diet. Ho'ola Lahui Hawai'i offers information and referral to outside agencies through case management. In addition, Ho'ola Lahui Hawai'i is sponsoring the traditional Native Hawaiian diet regimen on the island of Kaua'i. Ho'ola Lahui Hawai'i completed one diet project in Waimea in conjunction with the State Department of Health and started another in Kapa'a in May of 1992.

Traditional healing is also an area Ho'ola Lahui Hawai'i addresses with sponsorship of a statewide *la'au lapa'au* (training in traditional medicine) in the spring of 1992 in conjunction with E Ola Mau and Ka Wai Ola'o Kalani. In addition, Ho'ola Lahui Hawai'i offers *lomi lomi* (traditional massage therapy). Ho'ola Lahui Hawai'i intends to expand its services to include health education and teaching on sexually-tansmitted diseases, family planning, maternal and infant care, and alcohol/substance abuse. Ho'ola Lahui Hawai'i plans include establishing a health education component in kindergarten, elementary, and high schools, tailored to the physical and psychological needs of the particular age group.

Ke Ola Mamo is committed to improving the health status of Native Hawaiians on the island of O'ahu through the development of a system of culturally-competent services that use rather than duplicate the existing health care service delivery system. Through outreach referral and case consultation, Ke Ola Mamo's goal is the empowerment of Native Hawaiian families and individuals to ac-

cess appropriate health care services; the development of partnerships with existing health care services in a collaborative effort to improve access to health care; and working with Native Hawaiian communities and neighborhoods to assist them in meeting their health care needs.

In 1986, there were 137,481 Native Hawaiians living on the island of O'ahu, who comprise approximately two-thirds of the total Native Hawaiian population in the entire State of Hawai'i. The Native Hawaiian population living on O'ahu can be roughly divided into three equal groups by geographic location; those living on the leeward coast, including Pearl City; those living on the windward and north coasts; and those living in the urban Honolulu complex. There are estimated to be at least 20 distinct communities and neighborhoods where native Hawaiian families reside. As a start, Ke Ola Mamo has selected four of these communities to develop service delivery projects. Three projects involve rural communities: the Waimanalo community, the Wai'anae Community, and the Ko'olauloa community. A fourth project is being proposed as a community education and planning process for the urban Honolulu communities with future service implementation proposals.

The goal of Na Pu'uwai is to raise the health status of the Native Hawaiian residents of the island of Moloka'i, including Kalaupapa, and the island of Lana'i to the highest possible level and to encourage the Maximum participation of Native Hawaiians to achieve this goal. The strategy of the program is two-fold: (1) to develop a personalized schedule of recommended health care activities, referred to as a "personalized health care plan" for each client; and (2) to use case management methodologies as a behavioral intervention to assure client adherence to their "personalized health care plan."

To implement this strategy, the program: (1) conducts screening and enrollment for those who are self-referred, provider-referred, or recruited by staff; (2) conducts a health risk appraisal on each enrollee to assess current health maintenance status; (3) develops a personalized health care plan with each client, based on recommended primary, secondary, and tertiary health maintenance guidelines and the client's concerns and needs; (4) coordinates and provides health promotion and disease prevention programs and health screening; (5) provides clinic-based primary health care services; (6) provides multi-disciplinary case management services as appropriate, to enrolled participants; and (7) reassesses client status as dictated in the case management plan and conducts ongoing followup on all clients, case management and non-case management.

Na Pu'uwai's service delivery plan provides for (1) direct outpatient care services of a physician and nurse; (2) case management services of a social worker and multi-disciplinary case management team; (3) direct health education and health screening services; and (4) patient following and outreach services.

Hui No Ke Ola Pono (an association to strengthen and perpetuate life) is Maui's Native Hawaiian Health Care System, providing services that are culturally relevant to Native Hawaiians of Maui, including identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions frequently occurring in the Native Hawaiian population. The services provided

by Hui No Ke Ola Pono include health promotion and disease prevention; referrals for immunizations; improvement of nutrition; referrals for pregnancy and infant care; prevention and control of diabetes, high blood pressure, and middle ear infections; community outreach services; referrals to physician and nursing services; and education on traditional practitioner services.

In addition, traditional Hawaiian healers provide the following services: *hoʻoponopono* (family or group counseling); *laʻau lapaʻau* (traditional Hawaiian herbal medicine); and *lomi lomi* (Hawaiian massage therapy).

Hui Malama Ola Na ʻOiwi (caring for our people) is the Native Hawaiian health care system for Native Hawaiians on the island of Hawaiʻi. The program mission of Hui Malama Ola Na ʻOiwi is to assist Native Hawaiians in restoring a high quality health care system by creating and developing a non-threatening healing environment inclusive of traditional health assistance and to provide and facilitate a process of awareness and addressing the health needs, both physical and spiritual, of Native Hawaiians.

Hui Malama's objectives are to (1) promote physical, emotional, and spiritual health and well-being of Native Hawaiians on the island of Hawaiʻi; (2) assist and promote personal responsibility among Native Hawaiians toward making sound, informed decisions which would decrease unhealthy behaviors and reduce mobility and mortality rates; (3) support and advocate the use of health care services that come from the traditions of the Native Hawaiian culture and of western science; and (4) work toward the establishment of primary health care centers in appropriate locations where quality primary care can be provided and where primary care services are not currently available.

The death rates of Native Hawaiians exceed the death rates for all races in the United States caused by diseases of the heart, cancer, strokes, and diabetes. Achieving good health for Native Hawaiians appears difficult, but these diseases can be controlled through early detection, proper diet and treatment, and regular exercise.

Hui Malama Ola Na ʻOiwi provides the following services: (1) Outreach—enrolling participants in the program, assessing their health risk factors, assisting in securing medical insurance where needed, assisting in access to a physician, providing transportation to and from the physician for those who are unable to do so, and making home visits when necessary; (2) Health promotion and disease prevention—providing education regarding the prevention and control of diabetes, high blood pressure (hypertension), use of tobacco, alcohol and other harmful drugs, sexually transmitted disease, stress, cancer, the importance of sound nutrition habits, regular exercise, and proper maternal and infant care practices; (3) Primary health services—Hui Malama Ola Na ʻOiwi assists patients in securing access to the primary health care services of a physician, a physician's assistant, or a nurse practitioner.

Through the work of the five Native Hawaiian health care systems, on an annual basis 20,000 Native Hawaiians continue to benefit from the range of health care services provided by the systems.

NATIVE HAWAIIAN HEALTH CARE PROFESSIONS SCHOLARSHIPS

The Native Hawaiian Health Care Improvement Act also provides authority for the provision of scholarships to Native Hawai-

ians who are seeking higher education opportunities in the health care professions. The Native Hawaiian Health Scholarship Program is administered by the Kamehameha Schools, and has awarded 92 scholarships since 1991. These scholarships include: 10 bachelors of science in nursing, 2 clinical psychology doctoral programs, 2 dentists, 7 dental hygienists, one osteopathic physician, 29 allopathic physicians, 6 masters in public health, 12 masters in social work, one nurse midwife, 3 nurse practitioners, 4 doctors of psychology, and 5 registered nurses. Nineteen of the scholarship recipients have completed their studies and their service payback requirements and are practicing in the Native Hawaiian community. Seventeen are enrolled in advanced studies, three have completed their training and are awaiting placement for the service payback requirement, thirteen are in residency programs, and 24 have completed their studies and are currently providing services to the Native Hawaiian community.

REAUTHORIZATION PROCESS

In order to assure the maximum involvement of Native Hawaiians in the development of a bill to reauthorize the Native Hawaiian Health Care Improvement Act (the Act), from December of 1997 through January of 1998, eight island *'aha* (island-wide conferences) were held involving more than 1,200 individuals in an effort to identify the principle Native Hawaiian health and wellness issues and concerns. In March 1998, a statewide Native Hawaiian Health and Wellness Summit, Ka 'Uhane Lokahi, was held on the island of O'ahu, bringing together more than 600 people to identify potential health and wellness issues and concerns. In January 1999, a Nature Hawaiian Health Forum was convened to discuss major health care trends and strategies for health care trends and strategies for health care and wellness developed by the indigenous peoples of North America and Aotearoa (New Zealand).

In March 1999, the Executive Directors of the Native Hawaiian health care systems, the members of the Papa Ola Lokahi Board, and the Director of the Native Hawaiian Health Scholarship Program met to review the Act and to incorporate recommendations from the *'aha,* the summit, and the health forum for inclusion in a bill to reauthorize the Native Hawaiian Health Care Improvement Act. Thereafter, a series of public meetings were held to discuss and review a draft reauthorization bill and based upon the comments received, the bill was further refined and then circulated in the Native Hawaiian community. A final draft of the bill, incorporating and responding to recommendations received from the Native Hawaiian community, was submitted to the Congress.

SUMMARY OF MAJOR PROVISIONS

Senate bill 87 extends the existing program authorities of the Act and authorizes appropriations in such sums as may be necessary through fiscal year 2006. The bill contains extensive findings on the current health status of Native Hawaiians including the incidence and morality rates associated with various forms of cancer, diabetes, asthma, circulatory diseases, infectious disease and illness, and injuries, as well as statistics on life expectancy, maternal

and child health, births, teen pregnancies, fetal mortality, mental health, and health professions education and training.

The bill further refines the role of Papa Ola Lokahi and the Native Hawaiian health care systems, providing authority for the establishment of additional health care systems to serve the islands of Lana'i and Ni'ihau. The Board of Papa Ola Lokahi has been expanded to include the five Native Hawaiian health care systems, the Kamehameha Schools (or other organizations responsible for placing scholars from the Native Hawaiian Health Scholarship Program), the Hawai'i State Primary Care Association (which represents the community health centers), the Native Hawaiian Physicians Association, and such other organizations as the Papa Ola Lokahi Board will admit based upon a satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians.

The 1992 amendments to the Act adopted the relevant health objectives of the U.S. Surgeon General's Healthy People 2000 objectives as goals to be met by the Native Hawaiian health care systems. Senate bill 87 establishes new objectives the Native Hawaiian health care systems must meet based on the objectives in the U.S. Surgeon General's Healthy People 2010.

Senate bill 87 proposes that the providers of health care services, including traditional Native Hawaiian healers, who provide services under the auspices of the Native Hawaiian health care systems be treated as members of the Public Health Service for purposes of Federal Tort Claims Act coverage.

The bill also provides authorization for Papa Ola Lokahi to carry out Native Hawaiian demonstration projects of national significance in areas such as the education of health professionals, the integration of Western medicine with complementary health practices including traditional Native Hawaiian healing practices, the use of tele-wellness and telecommunications in chronic disease management and health promotion and disease prevention, the development of an appropriate model of health care for Native Hawaiians and other indigenous people, the development of a centralized data base and information system relating to the health care status, health care needs, and wellness of Native Hawaiians, and the establishment of a Native Hawaiian Center of Excellence for Nursing at the University of Hawai'i at Hilo, a Native Hawaiian Center for Excellence for Mental Health at the University of Hawai'i at Manoa, a Native Hawaiian Center of Maternal Health Center, a Native Hawaiian Center of Excellence for Research, Training, and Integrated Medicine at Moloka'i General Hospital, and a Native Hawaiian Center of Excellence for Complementary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center.

Senate bill 87 also authorizes the establishment of a 21-member National Bipartisan Native Hawaiian Health Care Entitlement Commission which would in turn be authorized to establish a 10-member study committee to collect and compile data necessary to understand the extent of Native Hawaiian needs with regard to the provision of health services. This study committee would make recommendations to the Commission for legislation that would provide for the culturally-competent and appropriate provision of health services for Native Hawaiians as an entitlement.

THE PROVISION OF FEDERAL PROGRAMS TO NATIVE HAWAIIANS

In the exercise of the plenary power vested in the Congress in Article I, section 8, clause 3 of the United States Constitution, the Congress has exercises its authority to address the conditions of the aboriginal, indigenous, native people of the United States, including the aboriginal, indigenous, native people of the states of Alaska and Hawai'i. Numerous federal laws have been enacted to address the conditions of American Indians, Alaska Natives and Native Hawaiians.

One hundred and sixty Federal laws have been enacted to address the conditions of Native Hawaiians. Those laws are set forth as an appendix to this report (Appendix A).

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The title of the Act is the Native Hawaiian Health Care Improvement Act Reauthorization Act of 2001.

Section 2. Findings

Subsection (a) sets forth the findings of the Congress with regard to the historical and legal basis for a Federal program designed to address the health care needs of Native Hawaiians. Subsection (b) sets forth the unmet needs and serious health disparities affecting Native Hawaiians, including chronic diseases and illnesses, infectious diseases and illnesses, injuries, dental health, life expectancy, maternal and child health, mental health, and health provisions education and training.

Section 3. Definitions

This section sets forth the definitions of terms used in the Act.

Section 2(1) defines "Department" to mean the Department of Health and Human Services.

Section 3(2) defines "disease prevention" to include immunizations, control of high blood pressure, control of sexually transmittable diseases, the prevention and control of chronic diseases, control of toxic agents, occupational safety and health, injury prevention, fluoridation of water, control of infectious agents, and provision of mental health care.

Section 3(3) defines "health promotion" to include pregnancy and infant care, including prevention of fetal alcohol syndrome, cessation of tobacco smoking, reduction in the use of alcohol and harmful illicit drugs, improvement of nutrition, improvement in physical fitness, family planning, control of stress, reduction of major behavioral risk factors and promotion of healthy lifestyle practices, and integration of cultural approaches to health and well-being.

Section 3(4) defines "Native Hawaiian" as any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i as evidenced by genealoglogical records, kama'aina (long-term community residents) witness verification from Native Hawaiian kupuna (elders) or birth records of the State of Hawai'i or any state or territory of the United States.

Section 3(5) defines "Native Hawaiian health care service" as an entity which has the following characteristics: organizes under Hawai'i law; provides or arranges for health care services through State-licensed practitioners (where applicable); a public or nonprofit private entity; its Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services; may be composed of as many as eight Native Hawaiian Health Centers; is recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering Native Hawaiian programs, or portions of programs; and is certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services as specified in the contract or grant entered between the Native Hawaiian health care system and Secretary.

Section 3(6) defines "Native Hawaiian Health Center" as an organization that provides primary health care services and which Papa Ola Lokahi has certified has met the following criteria: a governing board with a membership that has a minimum of fifty-percent (50%) Native Hawaiians; has demonstrated cultural competency in a predominantly Native Hawaiian community; has a patient population that is either fifty-percent Native Hawaiian or number not less than 2,500 Native Hawaiian clients annually.

Section 3(7) defines "Native Hawaiian Health Task Force" as a task force established by the State Council of Hawaiian Homestead Associations that implements health and wellness strategies in Hawai'i's Native Hawaiian communities.

Section 3(8) defines "Native Hawaiian organization" as a public or nonprofit organization that serves Native Hawaiian interests and which Papa Ola Lokahi has recognized for purposes of planning, conducting, or administering programs (or portions of programs) authorized under this Act.

Section 3(9) defines "Office of Hawaiian Affairs" and "OHA" as the governmental entity established under the Hawai'i' State Constitution which is charged with the responsibility of formulating policy relating to Native Hawaiian affairs.

Section 3(10) defines "Papa Ola Lokahi" as an organization composed of: E Ola Mau; the Office of Hawaiian Affairs' Alu Like, Inc.; the University of Hawai'i', the Hawai'i State Department of Health; the Kamehameha Schools (or other Native Hawaiian organization that administers the Native Hawaiian health scholarship program); Hawai'i State Primary Care Association or Native Hawaiian; Ho'ola Lahui Hawai'i (or a health care system serving the islands of Kaua'i or Ni'ihau); Ke Ola Mamo (or a health care system serving the island of O'ahu); Na Pu'uwai (or a health care system serving the islands of Moloka'i and Lana'i); Hui No Ke Ola Pono, or a health care system serving the island of Maui; Hui Malama Ola Ha 'Oiwi (or a health care system serving the island of Hawai'i); Ahahui O Na Kauka; other Native Hawaiian health care systems that Papa Ola Lokahi certifies and recognizes; and such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon a satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians. However, organizations will not be added to Papa Ola Lokahi if the Secretary determines that an organization has not developed a mission statement with clearly defined goals and objec-

tives for its contributions to the Native Hawaiian health care systems and an action plan for carrying out those goals and objectives.

Section 3(11) defines "primary health services" as the services of physicians, physician's assistants, nurse practitioners, and other health care professionals; diagnostic laboratory and radiologic services; preventive health services, including perinatal services, well child services, and family planning services, nutrition services, home health services, and other wellness services; emergency medical services; transportation services as required for adequate patient care; preventive dental services; and pharmaceutical and medicament services; primary care services which may lead to specialty and/or tertiary care; and complementary healing practices, including those performed by traditional Native Hawaiian healers.

Section 3(12) defines "Secretary" as the Secretary of the U.S. Department of Health and Human Services.

Section 3(13) defines "traditional Native Hawaiian healer" as a practitioner who is of Hawaiian ancestry and has the knowledge, skills and experience in direct personal health care of individuals, and whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by direct practical association with Native Hawaiian elders and oral traditions from generation to generation.

Section 4. Declaration of National Native Hawaiian Health Policy

This section establishes the policy of the Act.

Section 4(a) and (b) establish that it is the United States' policy, in fulfilling its special responsibilities and legal obligations to the indigenous people of Hawai'i which result from the unique and historical relationship between the United States and the indigenous people of Hawai'i, to raise the health status of Native Hawaiians to the highest possible level and to provide existing Native Hawaiian health care programs with the resources necessary to effectuate this policy. Section 4 also expresses Congress' intent to raise Native Hawaiians' health status by 2010 to at least the standards contained within the Surgeon General's Healthy People 2010, and to incorporate within health programs the following activities: integration of cultural approaches to health and well-being; increasing the number of health and allied-health care providers who can provide culturally competent care; increasing the use of traditional Native Hawaiian foods in peoples' diets and dietary preferences including those of students and the use of traditional foods in school feeding programs; identifying and instituting Native Hawaiian cultural values and practices within the "corporate cultures" of organizations and agencies providing health services to Native Hawaiians; facilitating the provision of Native Hawaiian healing practices by Native Hawaiian healers for those clients desiring such assistance; and supporting training and education activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers. progress made toward meeting the national policy of the Act which will be included in the President's report to the Congress under section 12.

Section 5. Comprehensive Health Care Master Plan for Native Hawaiians

Section 5(a)(1) authorizes the Secretary to make a grant or enter into a contract with Papa Ola Lokahi for the purpose of coordinating, implementing, and updating the Native Hawaiian comprehensive health care master plan which is designed to promote comprehensive health promotion and disease prevention services and to maintain and improve Native Hawaiian health status.

Section 5(a)(2) requires Papa Ola Lokahi and the Office of Hawaiian Affairs to consult with the Native Hawaiian health care systems, the Native Hawaiian Health Center, and the Native Hawaiian community in carrying out section 5, and authorizes Papa Ola Lokahi and the Office of Hawaiian Affairs to enter into memoranda of understanding or agreement to acquire joint funding and for purposes of addressing other issues to accomplish the objectives of this section.

Section 5(a)(3) requires that within eighteen (18) months of the Act's enactment that Papa Ola Lokahi, in cooperation with the Office of Hawaiian Affairs and other appropriate agencies of the State of Hawai'i, prepare and submit a study report to the Congress detailing the impact of current Federal and state health care financing mechanisms and policies on Native Hawaiians' health and well-being. The report will include the impact of cultural competency, risk assessment data, eligibility requirements and exemptions, reimbursement policies and capitation rates currently in effect for service providers, and any other information that may be important to improving the health status of Native Hawaiians as it relates to health care financing, including barriers to health care. The report's recommendations will be submitted to the Secretary for review and consultation with Native Hawaiians.

Section 5(b) authorizes the appropriation of such sums as may be necessary to coordinate, implement, and update the master plan and to prepare the health care financing study report.

Section 6. Functions of Papa Ola Lokahi and Office of Hawaiian Affairs

This section sets forth the functions of Papa Ola Lokahi and amends the previous Act to include the Office of Hawaiian Affairs.

Section 6(a) authorizes Papa Ola Lokahi to carry out the following responsibilities:

(1) coordinating, implementing, and updating the comprehensive health care master plan developed under section 5;

(2) training of Native Hawaiian health care practitioners, community outreach workers, counselors, cultural educators, physicians, physician's assistants, nurse practitioners, and other health and allied-health professionals who will be involved in providing health promotion and disease prevention education;

(3) identifying and researching the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;

(4) developing and maintaining an institutional review board for all research projects involving all aspects of Native Hawaiian health; and

(5) maintaining an action plan outlining the contributions that each of Papa Ola Lokahi's member organizations will make in carrying out the policy of the Act.

Section 6(b) authorizes Papa Ola Lokahi to receive special project funds that may be appropriated for the purpose of conducting research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

Section 6(c)(1) authorizes Papa Ola Lokahi to serve as a clearinghouse for the collection and maintenance of data associated with the health status of Native Hawaiians; the identification and research into diseases affecting Native Hawaiians; the availability of Native Hawaiian project funds, research projects, and publications; the collaboration of research in Native Hawaiian health; and the timely dissemination of information pertinent to the Native Hawaiian health care systems.

Section 6(c)(2) requires the Secretary to provide Papa Ola Lokahi and the Office of Hawaiian Affairs with at least one annual accounting of funds and services that the Department of Health and Human Services provides to States and non-profit groups and organizations in carrying out the Act's policy. This accounting will include, but not be limited to, the following: the amount of funds expended explicitly for and benefitting Native Hawaiians; the number of Native Hawaiians impacted by these funds; the identification of collaborations made with Native Hawaiian groups and organizations in the expenditure of these funds; and the amount of funds used for Federal administrative purposes and for the provision of direct services to Native Hawaiians.

Section 6(d)(1) requires that Papa Ola Lokahi provide annual recommendations to the Secretary regarding the allocation of all amounts appropriated under this Act.

Section 6(d)(2) requires that Papa Ola Lokahi, to the extent possible, coordinate and assist the health care programs and services to Native Hawaiians.

Section 6(d)(3) requires the Secretary to consult with Papa Ola Lokahi and make recommendations for Native Hawaiian representation on the President's Advisory Commission on Asian Americans and Pacific Islanders.

Section 6(e) authorizes Papa Ola Lokahi to act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems and the Native Hawaiian Health Centers.

Section 6(f)(1) authorizes Papa Ola Lokahi to enter into agreements or memoranda of understanding with relevant institutions, agencies, or organizations that are capable to providing health-related resources or services to the Native Hawaiians, the Native Hawaiian health care systems, and/or efforts towards carrying out the national policy of this Act.

Section 6(f)(2) addresses health care financing as follows:

Subsection (A) requires that Federal agencies providing health care financing and health care programs consult with Native Hawaiians and organizations providing Native Hawaiian health care services prior to adopting any policy or regulation which may impact on service provision or health insurance coverage. The consultation is to include but not be limited to identifying the impact of proposed policies, rules, or regulations.

Subsection (B) authorizes the State of Hawai'i to engage in meaningful consultation with Native Hawaiians and organizations providing Native Hawaiian health care services prior to making any changes or initiating new programs.

Subsection (C) authorizes the Office of Hawaiian Affairs, in concert with Papa Ola Lokahi, to develop consultative, contractual, or other arrangements with the following: the Centers for Medicare and Medicaid Services; the agency of the state which administers or supervises the administration of a state plan or waiver approved under Title XVIII, XIX, or XXI of the Social Security Act for payment of all or part of the health care services to Native Hawaiians who are eligible for medical assistance under such a state plan or waiver; or with any other Federal agency or agencies providing Native Hawaiians with full or partial health insurance. Such arrangements may include but are not limited to appropriate reimbursement for health care services including capitation and fee for service rates for Native Hawaiians who are entitled to insurance, scope of services provided, and/or any other matters which enable Native Hawaiians to maximize health insurance benefits provided by Federal and state health insurance programs.

Section 6(f)(3) provides that the Department and other Federal agencies that provide health care services may include the services of 'traditional Native Hawaiian healers' and 'traditional healers' providing 'traditional health care practices' as defined in section 4(r) of Public Law 94–437. Such services are to be exempt from national accreditation reviews.

Section 7. Native Hawaiian health care systems

This section addresses the Secretary's authority to enter into contracts and grants with Native Hawaiian health care systems for the provision of Native Hawaiian health care and health care referral services and the responsibilities of the Native Hawaiian health care systems.

Section 7(a) authorizes the Secretary to consult with Papa Ola Lokahi and make grants to or enter into contracts with any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health care services to Native Hawaiians who desire and are committed to bettering their own health. The Secretary may enter into not more than eight (8) grants or contracts, with preference given to Native Hawaiian health care systems and Native Hawaiian organizations. And to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems. A 'qualified entity' for purposes of subsection 7(a)(1) means a Native Hawaiian health care system or a Native Hawaiian Health Center predominantly serving Native Hawaiians.

Section 7(b) authorizes the Secretary to also make a grant to, or enter into a contract with, Papa Ola Lokahi for purposes of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau.

Section 7(c) specifies that each qualified entity receiving funds under section 7(a) must ensure that the following services are provided: outreach services to inform Native Hawaiians of the availability of health services; health promotion and disease prevention

education of Native Hawaiians by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators; services of physicians, physician's assistants, nurse practitioners, and other health professionals; immunizations; prevention and control of diabetes, hypertension, and otitis media (middle ear infection); pregnancy and infant care; improvement of nutrition, identification, treatment, control and reduction of incidences of preventable illnesses and conditions endemic to Native Hawaiians; collection of data related to the prevention of diseases and illnesses among Native Hawaiians; services within the meaning of the terms health promotion, disease prevention, and primary health services; and support of culturally appropriate activities enhancing health and wellness including land-based, ocean-based, and spiritually-based projects and programs. These services may be provided by traditional Native Hawaiian healers.

Section 7(d) provides that individuals who provide medical, dental, or other services under subsection (7)(a)(1) for Native Hawaiian health care systems shall be treated as if they were members of the Public Health Service and shall be covered under the provisions of section 224 of the Public Health Service Act.

Section 7(e) requires that a Native Hawaiian health care system receiving funds under subsection 7(a) must provide a designated area and appropriate staff to serve as a Federal loan repayment facility. This facility must be designed to enable health and allied-health professionals to remit payments to loans provided to such professionals under any Federal loan program.

Section 7(f) specifies that the Secretary may not make a grant or enter into a contract as authorized under subsection 7(a) unless the qualified entity agrees that the grant or contract amount will not, directly or through contract, be expended for the following: health care services except as described in section 7(c)(1); the purchase or improvement of real property (other than minor remodeling of existing improvements to real property); or the purchase of major medical equipment.

Section 7(g) provides that the Secretary may not make a grant or enter into a contract with any qualified entity under subsection 7(a) unless the qualified entity agrees that, whether health services are provided directly or through contract, health services under the grant or contract will be provided regardless of payment ability and the entity will impose a charge for the delivery of health services which will be made according to a public schedule of charges and will be adjusted to reflect the income of the individual involved.

Section 7(h) authorizes the appropriation of sums as may be necessary to carry out the general grant and planning grant activities under subsections 7(a) and 7(b) for fiscal years 2002 through 2012.

Section 8. Administrative grant for Papa Ola Lokahi

This section authorizes the Secretary to make a grant or enter into a contract with Papa Ola Lokahi for its administrative functions.

Section 8(a) authorizes the Secretary to make grants to or enter into contracts with Papa Ola Lokahi for the following: the coordination, implementation, and appropriate updating of the comprehensive health care master plan; training for persons described in sec-

tion 7(c)(1); identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiologic and health services; the maintenance of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the Act's policy; a clearinghouse function for the collection and maintenance of data associated with the health status of Native Hawaiians, the identification of research into diseases affecting Native Hawaiians, and the availability of Native Hawaiian project funds, research projects, and publications; the establishment and maintenance of an institutional review board for all health-related research involving Native Hawaiians; the coordination of the health care programs and services provided to Native Hawaiians; and the administration of special project funds.

Section 8(b) authorizes the appropriation of sums as may be necessary to carry out the activities in subsection 8(a) for each of fiscal years 2002 through 2012.

Section 9. Administration of grants and contracts

This section sets forth the terms and conditions under which the Secretary makes grants or enters into contracts.

Section 9(a) specifies that within any grants made or contracts entered include terms and conditions that the Secretary considers necessary or appropriate to ensure that the grant or contract objectives are achieved.

Section 9(b) requires that the Secretary periodically evaluate the performance of and compliance with grants and contracts under this Act.

Section 9(c) restricts the Secretary's authority to make any grant or enter into any contract under this Act with an entity unless the entity:

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

(3) with respect to health services provided to any population of Native Hawaiians, a substantial portion of whom has a limited ability to speak the English language, has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with that population in the language of that population and in the most appropriate cultural context, and has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered under Titles XVIII, XIX, or XXI of the Social Security Act, including any state plan, or under any other Federal health insurance plan if the entity will provide under the grant or contract any such health services directly, the entity has entered into a participation agreement under such plans and the entity is qualified to receive payments under such plan, or if the entity will

provide under the grant or contract any such health services through a contract with an organization, the organization has entered into a participation agreement under such plan, and the organization is qualified to receive payments under such plan; and

(5) agrees to submit an annual report to the Secretary and to Papa Ola Lokahi that describes the use and costs of health services provided under the grant or contract, including the average cost of health services per user, and that provides such other information the Secretary determines to be appropriate.

Section 9(d) addresses the Secretary's evaluation of contracts entered into by the Secretary.

Subsection (1) provides that when the Secretary's evaluation reveals that an entity has not complied with or satisfactorily performed a contract entered into under section 7, that before the contract is renewed the Secretary must attempt to resolve the areas of noncompliance or unsatisfactory performance and modify the contract to prevent future noncompliance or unsatisfactory performance.

Subsection (2) provides that if the Secretary determines that the noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew that entity's contract and is authorized to enter into a new section 7 contract with a qualified entity, as defined in section 7(a)(3), that provides services to the same population of Native Hawaiians that was served by the entity whose contract was not renewed.

Subsection (3) specifies that in determining whether to renew an entity's contract under the Act, the Secretary shall consider the results of the evaluations undertaken under the authority of section 9.

Subsection (4) specifies that the contracts the Secretary enters under this Act must be in accordance with all Federal contracting laws and regulations, but that the Secretary has the discretion to negotiate contracts without advertising and may be exempt from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

Subsection (5) specifies that payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

Section 9(e) provides that for each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under the Act, that entity is to submit an annual report to the Secretary and to Papa Ola Lokahi on the entity's activities under the grant or contract, the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of any entity concerning any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

Section 9(f) provides that the Secretary shall allow as a cost of any grant made or contract entered into under this Act, the cost of an annual private audit by a certified public accountant.

Section 10. Assignment of personnel

This section addresses the assignment of personnel by the Secretary.

Section 10(a) authorizes the Secretary to enter into an agreement with any entity under which the Secretary may assign personnel from Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

Section 10(b) specifies that any personnel assignment the Secretary agrees to under the authority of subsection 10(a) is to be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5 of the United States Code.

Section 11. Native Hawaiian health scholarships and fellowships

Section 11(a) provides that subject to the availability of funds appropriated under the authority of subsection 11(c), the Secretary is to provide funds through a direct grant to or a cooperative agreement with the Kamehameha Schools or another Native Hawaiian organization or health care organization with experience in administering education scholarships or placement services for the purpose of providing scholarship assistance to Native Hawaiian students who meet the requirements of section 338A of the Public Health Service Act, except for assistance provided for under section 11(b)(2) of this Act.

Section 11(b) provides authority for employees of the Native Hawaiian Health Care Systems and the Native Hawaiian Health Centers to have a priority for these scholarships.

Section 11(c)(1) specifies that subsection 11(a) is to be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 2541), except that the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian community as Papa Ola Lokahi identifies; to the maximum extent practicable, the Secretary is to select scholarship recipients from a list of eligible applicants the Kamehameha Schools or the Native Hawaiian organization administering the program submits; the obligated service requirement for each scholarship recipient is to be fulfilled through service, in order of priority, in any one of the Native Hawaiian health care systems or Native Hawaiian Health Centers; health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the U.S. Public Health Service in the State of Hawai'i; or a geographical area, facility, or organization that serves a significant Native Hawaiian population.

Subsection (D) provides that the scholarship program's placement services will assign scholarship recipients to appropriate sites.

Subsection (E) further specifies that counseling, retention, and other support services will be available to scholarship recipients and other scholarship and financial aid programs recipients enrolled in appropriate health professions training programs.

Subsection (F) provides that financial assistance may be provided to scholarship recipients in the health professions, designated in section 338A of the Public Health Service Act, while they are fulfilling their service requirement in any one of the Native Hawaiian health care systems or Native Hawaiian Health Centers.

Section 11(c)(2) provides that the financial aid provided through fellowships may be provided to Native Hawaiian community health representatives, outreach workers, health program administrators in professional training programs, and Native Hawaiians in certificated programs provided by traditional Native Hawaiian healers. The financial assistance may include a stipend and/or reimbursement for costs associated with participating in the program.

Section 11(c)(3) provides that scholarship recipients in health professions designated in section 338A of the Public Health Service Act shall have the same rights and benefits of members of the National Health Service Corps while fulfilling their service requirements.

Section 11(c)(4) provides that the financial assistance provided under section 11 shall be deemed 'Qualified Scholarships' for purposes of 26 U.S.C. section 117.

Section 11(d) authorizes the appropriation of such sums as may be necessary for the purpose of funding the scholarship assistance under subsection 11(a) for fiscal years 2002 through 2012.

Section 12. Report

This section provides that at the time the budget is submitted, the President is to transmit a report to Congress for each fiscal year on the progress made in meeting the Act's objectives. The report should include a review of programs established or assisted pursuant to the Act and an assessment and recommendation of additional programs or assistance necessary to provide health services to Native Hawaiians and to ensure a health status for Native Hawaiians which are on par with the general population's health services and health status.

Section 13. Use of Federal Government facilities and sources of supply

This section authorizes organizations that receive grants or contracts to have access to Federal property and supplies.

Section 13(a) authorizes the Secretary to allow organizations, in carrying out their grants or contracts authorized under the Act, to use existing facilities and equipment therein or under the Secretary's jurisdiction, under such terms and conditions as may be agreed upon for their use and maintenance.

Section 13(b) authorizes the Secretary to donate any personal or real property determined to be in excess of the needs of the Department or the General Services Administration to organizations that receive contracts or grants for purposes of carrying out such contract or grants.

Section 13(c) authorizes the Secretary to acquire excess or surplus Federal government personal or real property for donation to organizations that receive grants or contracts under this Act, provided that the Secretary determines that the property is appropriate for the organization's use for the purpose for which the contract or grant was authorized.

Section 14. Demonstration projects of national significance

This section authorizes demonstration projects to improve the health status of Native Hawaiians.

Section 14(a) authorizes the Secretary to consult with Papa Ola Lokahi and allocate appropriated amounts under this or any other Act to carry out Native Hawaiian demonstration projects of national significance. The project areas of interest may include the following:

(1) the development of a centralized database and information system relating to Native Hawaiian health care status, health care needs, and wellness;

(2) the education of health professionals, and other individuals in higher learning institutions, in health and allied health programs in healing practices, including Native Hawaiian healing practices;

(3) the integration of Western medicine with complementary healing practices including traditional Native Hawaiian healing practices;

(4) the use of tele-wellness and telecommunications in chronic disease management and health promotion and disease prevention;

(5) the development of appropriate models of Native Hawaiian health care and other indigenous people including the provision of culturally competent health services, related activities focusing on wellness concepts, and the development of appropriate kupuna care programs, and the development of financial mechanisms and collaborative relationships leading to universal access to health care; and

(6) the establishment of Native Hawaiian Centers of Excellence for Nursing at the University of Hawai'i at Hilo; for Mental Health at the University of Hawai'i at Manoa; for Maternal Health and Nutrition at the Waimanalo Health Center; and for Research, Training, and Integrated Medicine at Moloka'i General Hospital; and for Complementary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center. Papa Ola Lokahi and any centers established under paragraph (6) shall be deemed qualified as Centers of Excellence under the Public Health Service Act.

Section 14(b) provides that funds allocated for demonstration projects under subsection 14(a) shall not result in a reduction of funds, required by the Native Hawaiian health care systems, Native Hawaiian Health Centers, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out their respective responsibilities under this Act.

Section 15. National Bipartisan Commission on Native Hawaiian health care entitlement

This section authorizes the establishment of a commission for the purpose of examining and making recommendations to the Congress as to whether the provision of health care services to Native Hawaiians should be an entitlement program.

Section 15(a) establishes a National Bipartisan Native Hawaiian Health Care Entitlement Commission (to be referred to in this Act as the "Commission").

Section 15(b) provides that the Commission be comprised of twenty-one (21) members who are appointed as follows:

(1) the Majority and Minority Leaders of the House of Representatives and of the Senate will each appoint two members. These congressional commission members must also be members of congressional committees that consider legislation affecting the provision of health care to Native Hawaiians and other Native Americans. Commission members appointed under section 15(b)(1) will elect the Commission's chairperson and vice-chairperson.

(2) the Native Hawaiian health care systems will appoint five members, and the Hawai'i State Primary Care Association, Papa Ola Lokahi, Native Hawaiian Health Task Force, and the Office of Hawaiian Affairs will each appoint one member. The Association of Hawaiian Civic Clubs shall appoint two members who will represent Native Hawaiian populations residing in the continental United States.

(3) the Secretary shall appoint two members who possess knowledge of Native Hawaiian health concerns and wellness.

Section 153(c) provides that Commission members shall serve for the life of the Commission. Initial Commission members under subsection 15(b)(1) are to be appointed not later than 90 days after the Act's enactment, with the remaining Commission members appointed not later than 60 days after the members are appointed under subsection 15(b)(1). This section also specifies that vacancies will be filled in the manner which original appointments were made.

Section 15(d) specifies that the Commission's duties and functions are as follows:

(1) review and analyze the recommendations of the report of the study committee establishes under subsection 15(d)(3);

(2) make recommendations to Congress for the provision of health services to Native Hawaiian individuals as an entitlement, giving due regard to the effects of a program on existing health care delivery systems for Native Hawaiians and the effect of such programs on self-determination and their reconciliation;

(3) establish a study committee composed of at least ten (10) Commission members, with four appointed under subsection (b)(1), five members appointed under subsection 15(b)(2), and one member the Secretary appointed under subsection 15(b)(3). The study committee will conduct the following activities:

(A) to the extent necessary to carry out its duties, collect, compile, qualify, and analyze data necessary to understand the extent of Native Hawaiian needs with regard to the provision of health services, including holding hearings and soliciting the views of Native Hawaiians and Native Hawaiian organizations, and which may include authorizing and funding feasibility studies of various models for all Native Hawaiian beneficiaries and their families, including those living in other states;

(B) make recommendations to the Commission for legislation that will provide for culturally-competent and appropriate provision of health services to Native Hawaiians as an entitlement which, shall at a minimum, address issues

of eligibility and benefits to be provided, including recommendations regarding from whom such health services are to be provided and the cost and mechanisms for funding of the health services to be provided;

(C) determine the effect of the enactment of such recommendation on the existing system of delivery of health services for Native Hawaiians;

(D) determine the effect of a health service entitlement program for Native Hawaiian individuals on their self-determination and the reconciliation of their relationship with the United States;

(E) within twelve months after the appointment of the Commission members, make a written report of its findings and recommendations to the Commission which shall include statements from the minority and majority positions of the committee and which will be disseminated to Native Hawaiian organizations, agencies, and health organizations referred to in subsection 15(b)(2) for comment to the Commission; and

(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

(4) specifies that not later than eighteen (18) months after the appointment of the Commission members, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Native Hawaiians grounded in their culture, and based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Native Hawaiians and their self-determination and the reconciliation of their relationship with the United States.

Section 15(e)(1) specifies that Commission members appointed under subsection 15(b)(1) will not receive any additional compensation, allowances, or benefits for serving on the Commission, but may receive travel expenses and per diem in lieu of subsistence. Commission members appointed under subsection 15(b)(2) and (3) may receive compensation while the performing Commission business, and while serving away from home or regular place of business, be allowed travel expenses as the Commission chairperson authorizes. Commission personnel will be treated as if they were Senate employees for purposes of compensation (except for Commission members), employment benefits, rights, and privileges.

Section 15(e)(2) specifies that the Commission chairperson shall call Commission meetings. This subsection further specifies that a quorum shall consist of not less than twelve (12) members, with not less than four (4) such members appointed under subsection 15(b)(1), with not less than seven (7) such members appointed under subsection 15(b)(2), and not less than one (1) member appointed under subsection 15(b)(3).

Section 15(e)(3) authorizes Commission members to appoint an executive director. The executive director, with the Commission's approval, may appoint such personnel as the executive director deems appropriate. This subsection also specifies that the executive director, with the Commission's approval, may procure temporary

and intermittent services. This subsection authorizes the General Services Administration Administrator to locate suitable office space for Commission headquarters in Washington, D.C. and a Commission liaison office in the State of Hawai'i. Both offices shall include all necessary equipment and incidentals required for the Commission's proper functioning.

Section 15(f)(1) authorizes the Commission to hold hearings and to undertake other activities the Commission determines to be necessary to carry out its duties, except that at least eight (8) hearings shall be held on each of the Hawaiian Islands and three (3) hearings in the continental United States in areas where large numbers of Native Hawaiians are present. Such hearings shall be held to solicit the views of Native Hawaiians regarding the delivery of health care services to such individuals. At least four Commission members, including at least one congressional member, must be present to constitute a hearing. Study committee hearings authorized under subsection 15(d)(3) may be counted towards the number of hearings this paragraph requires.

Section 15(f)(2) authorizes the Comptroller General, at the Commission's request, to conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

Section 15(f)(3) specifies that, upon the Commission's request, the Director of the Congressional Budget Office and/or the Chief Actuary of the Centers for Medicare and Medicaid Services shall provide cost estimates the Commission determines to be necessary to carry out its duties. The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subsection 15(f)(3)(A).

Section 15(f)(4) specifies that, at the Commission's request, the head of any Federal agency may detail its personnel to the Commission, without reimbursement, to assist in carrying out the Commission's duties. Such detail will not interrupt or otherwise affect the civil service status or privileges of the Federal employees.

Section 15(f)(5) specifies that, at the Commission's request, the head of any Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

Section 15(f)(6) authorizes the Commission to use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress.

Section 15(f)(7) authorizes the Commission to secure directly from any Federal agency information necessary to enable the Commission to carry out its duties. Upon request of the Commission chairperson, the head of such agency shall furnish such information to the Commission.

Section 15(f)(8) authorizes the Administrator of General Services, at the Commission's request, to provide the Commission with administrative support services which are provided on a reimbursable basis.

Section 15(f)(9) specifies that the Commission shall be treated as a congressional committee for purposes of costs relating to printing

and binding (including the cost of personnel detailed from the Government Printing Office).

Section 15(g) authorizes appropriations of such sums as may be necessary to carry out section 15. This appropriated amount shall not result in a reduction in any other appropriation for health care or health services for Native Hawaiians.

Section 16. Rule of construction

This section specifies that nothing in this Act will be construed to restrict the authority of the State of Hawai'i to license health practitioners.

Section 17. Compliance with Budget Act

This section provides that any new spending authority described in section 401(c)(2)(A) or (B) of the Congressional Budget Act of 1974 which is provided under the authority of the Act is to be effective only for any fiscal year to the extent or in such amounts as are provided in appropriation acts.

Section 18. Severability

This section specifies that if any provision of the Act or application of any provision of the Act to any person or circumstances is held to be invalid, the remainder of the Act will be unaffected.

LEGISLATIVE HISTORY

On January 22, 2001 Senator Daniel K. Inouye, for himself and Senator Daniel K. Akaka, introduced Senate bill 87. It was referred to the Committee on Indian Affairs. No hearings were held on S. 87, however, during the 106th Congress, the Committee did hold a series of hearings on S. 1929 which is nearly identical to S. 87. Those hearings were as follows: Moloka'i and Kaua'i (January 18, 2000); Maui (January 19, 2000); Hilo, Hawai'i (January 20, 2000); O'ahu (January 21, 2000); Kona, Hawai'i and Lana'i (March 16, 2000).

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Committee on Indian Affairs, on July 24, 2001, in an open business meeting, by a unanimous vote, recommended that the Senate pass an amendment in the nature of a substitute to S. 87, a bill to reauthorize and amend the Native Hawaiian Health Care Act.

COST AND BUDGETARY CONSIDERATIONS

At the time of filing this report, the cost estimate of the Congressional Budget Office on S. 87 has not yet been received. Compliance with Senate Rule XXVI, paragraph 11(a) is therefore impracticable at this time.

EXECUTIVE COMMUNICATIONS

The Committee received no communications from the Executive branch of government on S. 87.

REGULATORY AND PAPERWORK IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that the amendment in the nature of a substitute to S. 87 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW

UNITED STATES CODE ANNOTATED

TITLE 42. THE PUBLIC HEALTH AND WELFARE

CHAPTER 122—NATIVE HAWAIIAN HEALTH CARE

§ 11701. Findings

[The Congress finds that:]

(a) GENERAL FINDINGS.—Congress makes the following findings:

(1) Native Hawaiians [comprise] *begin their story with the Kumulipo which details the creation and the inter-relationship of all things, including their evolvement as healthy and well people.*

(2) Native Hawaiians are a distinct and unique indigenous [people] *peoples* with a historical continuity to the original inhabitants of the Hawaiian archipelago [whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778] *within Ke Moananui, the Pacific Ocean, and have a distinct society organized almost 2,000 years ago.*

(3) The health and well-being of Native Hawaiians are intrinsically tied to their deep feelings and attachment to their lands and seas.

(4) The long-range economic and social changes in Hawai'i over the 19th and early 20th centuries have been devastating to the health and well-being of Native Hawaiians.

(5) Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national lands, either through their monarchy or through a plebiscite or referendum.

[(2)] *(6)* The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions. *In referring to themselves, Native Hawaiians use the term "Kanaka Maoli," a term frequently used in the 19th century to describe the native people of Hawai'i.*

[(3)] *(7)* The constitution and statutes of the State of Hawai'i:

(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

[(4)] *(8)* At the time of the arrival of the first nonindigenous [people] *peoples* in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

[(5)] *(9)* A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

[(6)] *(10)* Throughout the 19th century and until 1893, the United States: (A) recognized the independence of the Hawaiian Nation; (B) extended full and complete diplomatic recognition to the Hawaiian Government; and (C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

[(7)] *(11)* In [the year] 1893, *John L. Stevens,* the United States Minister assigned to the sovereign and independent Kingdom of Hawai'i, [John L. Stevens,] conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful [Government] government of Hawai'i.

[(8)] *(12)* In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawai'i and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawai'i or the lawful Government of Hawai'i in violation of treaties between the [two] *2* nations and of international law.

[(9)] *(13)* In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair."

[(10)] *(14)* Queen Lili'uokalani, the lawful monarch of Hawai'i, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawai'i, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

(15) The United States has acknowledged the significance of these events and has apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawai'i with the participation of agents and citizens of the United States, and the resulting deprivation of the rights of Native Hawaiians to self-determination in legislation enacted into law in 1993 (Public Law 103–150; 107 Stat. 1510).

[(11)] *(16)* In 1898, the United States annexed Hawai'i through the Newlands Resolution without the consent of or compensation to the indigenous [people] *peoples* of Hawai'i or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination over their lands and ocean resources.

[(12)] *(17)* Through the Newlands Resolution and the 1900 Organic Act, the [United States] Congress received [1.75 million] *1,750,000* acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be "used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes", thereby establishing a special trust relationship between the United States and the inhabitants of Hawai'i.

[(13)] *(18)* In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the [United States] *Committee on Territories of the* House of Representatives [Committee on Territories] as stating, "One thing that impressed me * * * was the fact that the natives of the islands [who are our wards, I should say, and] * * * for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty."

[(14)] *(19)* In 1938, [the United States] Congress again acknowledged the unique status of the *Native* Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance".

[(15)] *(20)* Under the Act entitled "An Act to provide for the admission of the State of Hawai'i into the Union," approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the *Native* Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

[(16)] *(21)* Under the Act entitled "An Act to provide for the admission of the State of Hawai'i into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the *Native* Hawaiian people by retaining the legal responsibility of the State for the better-

ment of the conditions of Native Hawaiians under section 5(f) [of the Act entitled "An Act to provide for the admission of the State of Hawai'i into Union", approved March 18, 1959 (73 Stat. 4, 6).] *of such Act.*

(22) In 1978, the people of Hawai'i amended their Constitution to establish the Office of Hawaiian Affairs and assigned to that body the authority to accept and hold real and personal property transferred from any source in trust for the Native Hawaiian people, to receive payments from the State of Hawai'i due to the Native Hawaiian people in satisfaction of the pro rata share of the proceeds of the Public Land Trust created under section 5 of the Admission Act of 1959 (Public Law 86–3), to act as the lead State agency for matters affecting the Native Hawaiian people, and to formulate policy on affairs relating to the Native Hawaiian people.

[(17)] *(23)* The authority of the Congress under the [United States] Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawai'i.

(24) Further, the United States has recognized the authority of the Native Hawaiian people to continue to work towards an appropriate form of sovereignty as defined by the Native Hawaiian people themselves in provisions set forth in legislation returning the Hawaiian Island of Kaho'olawe to custodial management by the State of Hawai'i in 1994.

[(18)] *(25)* In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people. *This program is conducted by the Native Hawaiian Health Care Systems, the Native Hawaiian Health Scholarship Program, and Papa Ola Lokahi. Health initiatives from these and other health institutions and agencies using Federal assistance have begun to lower the century-old morbidity and mortality rates of Native Hawaiian people by providing comprehensive disease prevention, health promotion activities, and increasing the number of Native Hawaiians in the health and allied health professions. This has been accomplished through the Native Hawaiian Health Care Act of 1988 (Public Law 100–579) and its reauthorization in section 9168 of Public Law 102–396 (106 Stat. 1948).*

[(19)] *(26)* This historical and unique legal relationship has been consistently recognized and affirmed by [the] Congress through the enactment of Federal laws which extend to the *Native* Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974 [42 U.S.C.A. § 2991 et seq.]; the American Indian Religious Freedom Act [42 U.S.C.A. 1996]; the National Museum of the American Indian Act [20 U.S.C.A. § 80q et seq.]; and the Native American Graves Protection and Repatriation Act [25 U.S.C.A. § 3001 et seq.].

[(20)] *(27)* The United States has also recognized and reaffirmed the trust relationship to the *Native* Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965 [42 U.S.C.A. § 3001 et seq.], the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973 [29 U.S.C.A. § 701 et seq.], the Native Hawaiian Health Care Act of 1988 *(Public Law 100–579)*, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

[(21)] *(28)* The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986 *(Public Law 99–570)*.

(29) Further, the United States has recognized that Native Hawaiians, as aboriginal, indigenous, native peoples of Hawai'i, are a unique population group in Hawai'i and in the continental United States and has so declared in Office of Management and Budget Circular 15 in 1997 and Presidential Executive Order No. 13125, dated June 7, 1999.

[(22)] *(30)* Despite [such services,] *the United States having expressed its committment to a policy of reconciliation with the Native Hawaiian people for past grievances in Public Law 103–150 (107 Stat. 1510)* the unmet health needs of the Native Hawaiian people [are] *remain* severe and [the] *their* health status [of Native Hawaiians] continues to be far below that of the general population of the United States.

(b) UNMET NEEDS AND HEALTH DISPARITIES.—Congress finds that the unmet needs and serious health disparties that adversely affect the Native Hawaiian people include the following:

(1) CHRONIC DISEASE AND ILLNESS.—

(A) CANCER.—

(i) IN GENERAL.—With respect to all cancer—

(I) Native Hawaiians have the highest cancer mortality rates in the State of Hawai'i (231.0 out of every 100,000 residents), 45 percent higher than that for the total State population (159.7 out of every 100,000 residents);

(II) Native Hawaiian males have the highest cancer mortality rates in the State of Hawai'i for cancers of the lung, liver and pancreas and for all cancers combined;

(III) Native Hawaiian females ranked highest in the State of Hawai'i for cancers of the lung, liver, pancreas, breast, cervix uteri, corpus uteri, stomach, and rectum, and for all cancers combined;

(IV) Native Hawaiian males have the highest years of productive life lost from cancer in the State of Hawai'i with 8.7 years compared to 6.4 yeas for other males; and

(V) Native Hawaiian females have 8.2 years of productive life lost from cancer in the State of Hawai'i as compared to 6.4 years for other females in the State of Hawai'i;

(ii) BREAST CANCER.—With respect to breast cancer—

(I) Native Hawaiians have the highest mortality rates in the State of Hawai'i from breast cancer (37.96 out of every 100,000 residents), which is 25 percent higher than that for Caucasian Americans (30.25 out of every 100,000 residents) and 106 percent higher than that for Chinese Americans (18.39 out of every 100,000 residents); and

(II) nationally, Native Hawaiians have the third highest mortality rates due to breast cancer (25.0 out of every 100,000 residents) following African Americans (31.4 out of every 100,000 residents) and Caucasian Americans (27.0 out of every 100,000 residents).

(iii) CANCER OF THE CERVIX.—Native Hawaiians have the highest mortality rates from cancer of the cervix in the State of Hawai'i (3.82 out of every 100,000 residents) followed by Filipino Americans (3.33 out of every 100,000 residents) and Caucasian Americans (2.61 out of every 100,000 residents).

(iv) LUNG CANCER.—Native Hawaiians have the highest mortality rates from lung cancer in the State of Hawai'i (90.70 out of every 100,000 residents), which is 61 percent higher than Caucasian Americans, who rank second and 161 percent higher than Japanese Americans, who rank third.

(v) PROSTATE CANCER.—Native Hawaiian males have the second highest mortality rates due to prostate cancer in the State of Hawai'i (25.86 out of every 100,000 residents) with Caucasian Americans having the highest mortality rate from prostate cancer (30.55 out of every 100,000 residents).

(B) DIABETES.—With respect to diabetes, for the years 1989 through 1991—

(i) Native Hawaiians had the highest mortality rate due to diabetes mellitis (34.7 out of every 100,000 residents) in the State of Hawai'i which is 130 percent higher than the statewide rate for all other races (15.1 out of every 100,000 residents);

(ii) full-blood Hawaiians had a mortality rate of 93.3 out of every 100,000 residents, which is 518 percent higher than the rate for the statewide population of all other races; and

(iii) Native Hawaiians who are less than full-blood had a mortality rate of 27.1 out of every 100,000 residents, which is 79 percent higher than the rate for the statewide population of all other races.

(C) ASTHMA.—With respect to asthma—

(i) in 1990, Native Hawaiians comprised 44 percent of all asthma cases in the State of Hawai'i for those 18

years of age and younger, and 35 percent of all asthma cases reported; and

(ii) in 1992, the Native Hawaiian rate for asthma was 81.7 out of every 1000 residents, which was 73 percent higher than the rate for the total statewide population of 47.3 out of every of every 1000 residents.

(D) CIRCULATORY DISEASES.—

(i) HEART DISEASE.—With respect to heart disease—

(I) the death rate for Native Hawaiians from heart disease (333.4 out of every 100,000 residents) is 66 percent higher than for the entire State of Hawai'i (201.1 out over every 100,000 residents); and

(II) Native Hawaiian males have the greatest years of productive life lost in the State of Hawai'i where Native Hawaiian males lose an average of 15.5 years and Native Hawaiian females lose an average of 8.2 years due to heart disease, as compared to 7.5 years for all males in the State of Hawai'i and 6.4 years for all females.

(ii) HYPERTENSION.—The death rate for Native Hawaiians from hypertension (3.5 out of every 100,000 residents) is 84 percent higher than that for the entire State (1.9 out of every 100,000 residents).

(iii) STROKE.—The death rate for Native Hawaiians from stroke (58.3 out of every 100,000 residents) is 13 percent higher than that for the entire State (51.8 out of every 100,000 residents).

(2) INFECTIOUS DISEASE AND ILLNESS.—The incidence of AIDS for Native Hawaiians is at least twice as high per 100,000 residents (10.5 percent) than that for any other non-Caucasian group in the State of Hawai'i.

(3) ACCIDENTS.—With respect to accidents—

(A) the death rate for Native Hawaiians from accidents (38.8 out of every 100,000 residents) is 45 percent higher than that for the entire State (26.8 out of every 100,000 residents);

(B) Native Hawaiian males lose an average of 14 years of productive life lost from accidents as compared to 9.8 years for all other males in Hawai'i; and

(C) Native Hawaiian females lose an average of 4 years of productive life lost from accidents but this rate is the highest rate among all females in the State of Hawai'i.

(4) DENTAL HEALTH.—With respect to dental health—

(A) Native Hawaiian children exhibit among the highest rates of dental caries in the nation, and the highest in the State of Hawai'i as compared to the 5 other major ethnic groups in the State;

(B) the average number of decayed or filled primary teeth for Native Hawaiian children ages 5 through 9 years was 4.3 as compared with 3.7 for the entire State of Hawai'i and 1.9 for the United States; and

(C) the proportion of Native Hawaiian children ages 5 through 12 years with unmet treatment needs (defined as having active dental caries requiring treatment) is 40 per-

cent as compared with 33 percent for all other races in the State of Hawai'i.

(5) LIFE EXPECTANCY.—With respect to life expectancy—

(A) Native Hawaiians have the lowest life expectancy of all population groups in the State of Hawai'i;

(B) between 1910 and 1980, the life expectancy of Native Hawaiians from birth has ranged from 5 to 10 years less than that of the overall State population average; and

(C) the most recent tables for 1990 show Native Hawaiian life expectancy at birth (74.27 years) to be about 5 years less than that of the total State population (78.85 years).

(6) MATERNAL AND CHILD HEALTH.—

(A) PRENATAL CARE.—With respect to prenatal care—

(i) as of 1996, Native Hawaiian women have the highest prevalence (21 percent) of having had no prenatal care during their first trimester of pregnancy when compared to the 5 largest ethnic groups in the State of Hawai'i;

(ii) of the mothers in the State of Hawai'i who received no prenatal care throughout their pregnancy in 1996, 44 percent were Native Hawaiian;

(iii) over 65 percent of the referrals to Healthy Start in fiscal years 1996 and 1997 were Native Hawaiian newborns; and

(iv) in every region of the State of Hawai'i, many Native Hawaiian newborns begin life in a potentially hazardous circumstance, far higher than any other racial group.

(B) BIRTHS.—With respect to births—

(i) in 1996, 45 percent of the live births to Native Hawaiian mothers were infants born to single mothers which statistics indicate put infants at higher risk of low birth weight and infant mortality;

(ii) in 1996, of the births to Native Hawaiian single mothers, 8 percent were low birth weight (under 2500 grams); and

(iii) of all low birth weight babies born to single mothers in the State of Hawai'i, 44 percent were Native Hawaiian.

(C) TEEN PREGNANCIES.—With respect to births—

(i) in 1993 and 1994, Native Hawaiians had the highest percentage of teen (individuals who were less than 18 years of age) births, (8.1 percent) compared to the rate for all other races in the State of Hawai'i (3.6 percent);

(ii) in 1996, nearly 53 percent of all mothers in Hawai'i under 18 years of age were Native Hawaiian;

(iii) lower rates of abortion (a third lower than for the statewide population) among Hawaiian women may account in part, for the higher percentage of live births;

(iv) in 1995, of the births to mothers age 14 years and younger in Hawai'i, 66 percent were Native Hawaiian; and

(v) in 1996, of the births in this same group, 48 percent were Native Hawaiian.

(D) FETAL MORTALITY.—In 1996, Native Hawaiian fetal mortality rates comprised 15 percent of all fetal deaths for the State of Hawai'i. However, for fetal deaths occurring in mothers under the age of 18 years, 32 percent were Native Hawaiian, and for mothers 18 through 24 years of age, 28 percent were Native Hawaiians.

(7) MENTAL HEALTH.—

(A) ALCOHOL AND DRUG ABUSE.—With respect to alcohol and drug abuse—

(i) Native Hawaiians represent 38 percent of the total admissions to Department of Health, Alcohol, Drugs and Other Drugs, funded substance abuse treatment programs;

(ii) in 1997, the prevalence of smoking by Native Hawaiians was 28.5 percent, a rate that is 53 percent higher than that for all other races in the State of Hawai'i which is 18.6 percent;

(iii) Native Hawaiians have the highest prevalence rates of acute drinking (31 percent), a rate that is 79 percent higher than that for all other races in the State of Hawai'i;

(iv) the chronic drinking rate among Native Hawaiians is 54 percent higher than that for all other races in the State off Hawai'i;

(v) in 1991, 40 percent of the Native Hawaiian adults surveyed reported having used marijuana compared with 30 percent for all other races in the State of Hawai'i; and

(vi) nine percent of the Native Hawaiian adults surveyed reported that they are current users (within the past year) of marijuana, compared with 6 percent for all other races in the State of Hawai'i.

(B) CRIME.—With respect to crime—

(i) in 1996, of the 5,944 arrests that were made for property crimes in the State of Hawai'i, arrests of Native Hawaiians comprised 20 percent of that total;

(ii) Native Hawaiian juveniles comprised a third of all juvenile arrests in 1996;

(iii) In 1996, Native Hawaiians represented 21 percent of the 8,000 adults arrested for violent crimes in the State of Hawai'i, and 38 percent of the 4,066 juvenile arrests:

(iv) Native Hawaiians are over-represented in the prison population in Hawai'i;

(v) in 1995 and 1996 Native Hawaiians comprised 36.5 percent of the sentenced felon prison population in Hawai'i, as compared to 20.5 percent for Caucasian Americans, 3.7 percent for Japanese Americans, and 6 percent for Chinese Americans;

(vi) in 1995 and 1996 Native Hawaiians made up 45.4 percent of the technical violator population, and at the Hawai'i Youth Correctional Facility, native Hawai-

ians constituted 51.6 percent of all detainees in fiscal year 1997; and

(vii) based on anecdotal information from inmates at the Halawa Correction Facilities, Native Hawaiians are estimated to comprise between 60 and 70 percent of all inmates.

(8) HEALTH PROFESSIONS EDUCATION AND TRAINING.—With respect to health professions education and training—

(A) Native Hawaiians age 25 years and older have a comparable rate of high school completion, however, the rates of baccalaureate degree achievement amongst Native Hawaiians are less than the norm in the State of Hawai'i (6.9 percent and 15.76 percent respectively);

(B) Native Hawaiian physicians make up 4 percent of the total physician workforce in the State of Hawai'i; and

(C) in fiscal year 1997, Native Hawaiians comprised 8 percent of those individuals who earned Bachelor's Degrees, 14 percent of those individuals who earned professional diplomas, 6 percent of those individuals who earned Master's Degrees, and less than 1 percent of individuals who earned doctoral degrees at the University of Hawai'i.

§ 11702. Declaration of [policy] *National Native Hawaiian Health Policy*

(a) CONGRESS.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous [people] *peoples* of Hawai'i resulting from the unique and historical relationship between the United States and the [Government of the] indigenous [people] *peoples* of Hawai'i—

(1) to raise the health status of Native Hawaiians to the highest possible health level; and

(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

(b) INTENT OF CONGRESS.—It is the intent of the Congress that—

[the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:]

(1) [Reduce coronary heart disease deaths to no more than 100 per 100,000.] *health care programs having a demonstrated effect of substantially reducing or eliminating the over-representation of Native Hawaiians among those suffering from chronic and acute disease and illness and addressing the health needs, including perinatal, early child development, and family-based health education, of Native Hawaiians shall be established and implemented; and*

(2) [Reduce stroke deaths to no more than 20 per 100,000.] *the Nation raise the health status of Native Hawaiians by the year 2010 to at least the levels set forth in the goals contained within Healthy People 2010 or successor standards and to incorporate within health programs, activities defined and identified by Kanaka Maoli which may include—*

(A) incorporating and supporting the integration of cultural approaches to health and well-being, including programs using traditional practices relating to the atmosphere (lewa lani), land ('aina), water (wai), or ocean (kai);

(B) increasing the number of health and allied-health care providers who are trained to provide culturally competent care to Native Hawaiians;

(C) increasing the use of traditional Native Hawaiian foods in peoples' diets and dietary preferences including those of students and the use of these traditional foods in school feeding programs;

(D) identifying and instituting Native Hawaiian cultural values and practices with the 'corporate cultures' of organizations and agencies providing health services to Native Hawaiians;

(E) facilitating the provision of Native Hawaiian healing practices by Native Hawaiian healers for those clients desiring such assistance; and

(F) supporting training and education activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers.

[(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

[(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

[(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

[(6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

[(7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.

[(8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.

[(9) Reduce diabetes-related deaths to no more than 34 per 100,000.

[(10) Reduce the most severe complications of diabetes as follows:

[(A) end-stage renal disease to no more than 1.4 in 1,000;

[(B) blindness to no more than 1.4 in 1,000;

[(C) lower extremity amputation to no more than 4.9 in 1,000;

[(D) perinatal mortality to no more than 2 percent; and

[(E) major congenital malformations to no more than 4 percent.

[(11) Reduce infant mortality to no more than 7 deaths per 1,000 live births.

[(12) reduce low birth weight to no more than 5 percent of live births.

[(13) Increase first trimester prenatal care to at least 90 percent of live births.

[(14) Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.

[(15) Reduce unintended pregnancies to no more than 30 percent of pregnancies.

[(16) Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.

[(17) Increase years of healthy life to at least 65 years.

[(18) Eliminate financial barriers to clinical preventive services.

[(19) Increase childhood immunization levels to at least 90 percent of 2-year-olds.

[(20) Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.

[(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.

[(22) Reduce edentulism to no more than 20 percent in people age 65 and older.

[(23) Increase moderate daily physicial activity to at least 30 percent of the population.

[(24) Reduce sedentary lifestyles to no more than 15 percent of the population.

[(25) Reduce overweight to a prevalence of no more than 20 percent of the population.

[(26) Reduce dietary fat intake to an average of 30 percent of calories or less.

[(27) Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dietitians.

[(28) Reduce cigarette smoking prevalence to no more than 15 percent of adults.

[(29) Reduce initiation of smoking to more than 15 percent by age 20.

[(30) Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.

[(31) Reduce alcohol use by school children 12 to 17 to less than 13 percent.

[(32) Reduce marijuana use by youth age 18 to 25 to less than 8 percent.

[(33) Reduce cocaine use by youth aged 18 to 25 to less than 3 percent.

[(34) Confine HIV infection to no more than 800 per 100,000.

[(35) Reduce gonorrhea infections to no more than 225 per 100,000.

[(36) Reduce syphilis infections to no more than 10 per 100,000.

[(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

[(38) Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

[(39) Reduce indigenous cases of vaccine-preventable diseases as follows:

[(A) Diphtheria among individuals age 25 and younger to 0;

[(B) Tetanus among individuals age 25 and younger to 0;

[(C) Polio (wild-type virus) to 0;

[(D) Measles to 0;

[(E) Rubella to 0;

[(F) Congenital Rubella Syndrome to 0;
[(G) Mumps to 500; and
[(H) Pertussis to 1,000; and
[(40) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.]

(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to [the] Congress under section [11710 of this title] *12*, a report on the progress [made in each area toward meeting each of the objectives described in subsection (b) of this section.] *towards meeting the National policy as set forth in this section.*

§ 11703. Comprehensive health care master plan for Native Hawaiians

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians [The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.] *and to support community-based initiatives that are reflective of holistic approaches to health.*

(2) CONSULTATION.—

(A) IN GENERAL.—Papa Ola Lokahi and the Office of Hawaiian Affairs shall consult with the Native Hawaiian health care systems. Native Hawaiian Health Centers, and the Native Hawaiian community in carrying out this section.

(B) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs may enter into memoranda of understanding or agreement for the purposes of acquiring joint funding and for other issues as may be necessary to accomplish the objectives of this section.

(3) HEALTH CARE FINANCING STUDY REPORT.—Not later than 18 months after the date of enactment of this Act, Papa Ola Lokahi in cooperation with the Office of Hawaiian Affairs and other appropriate agencies of the State of Hawai'i, including the Department of Health and the Department of Human Services and the Native Hawaiian health care systems and Native Hawaiian Health Centers, shall submit to Congress a report detailing the impact of current Federal and State health care financing mechanisms and policies on the health and well-being of Native Hawaiians. Such report shall include—

(A) information concerning the impact of cultural competency, risk assessment data, eligibility requirements and exemptions, and reimbursement policies and capitation rates currently in effect for service providers;

(B) any other such information as may be important to improving the health status of Native Hawaiians as such

information relates to health care financing including barriers to health care; and

(C) the recommendations for submission to the Secretary for review and consultation with Native Hawaiians.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a) [of this section].

§ 11704. Functions of Papa Ola Lokahi

(a) RESPONSIBILITY.—Papa Ola Lokahi shall be responsible for the—

(1) coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan developed pursuant to section [11703 of this title] *5*;

(2) training for the persons described in [section 11705(c)(1)(B) of this title] *subparagraphs (B) and (C) of section 7(c)(1)*;

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services; and

(4) development and maintenance of an institutional review board for all research projects involving all aspects of Native Hawaiian health, including behavioral, biomedical, epidemiological, and health services studies; and

[(4)] *(5)* the [development] *maintenance* of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this [chapter] *Act*.

(b) SPECIAL PROJECT FUNDS.—Papa Ola Lokahi [is authorized to] *may* receive special funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

(c) CLEARINGHOUSE.—

(1) IN GENERAL.—Papa Ola Lokahi shall serve as a clearinghouse for:

[(1)] *(A)* the collection and maintenance of data associated with the health status of Native Hawaiians;

[(2)] *(B)* the identification and research into diseases affecting Native Hawaiians;

[(3)] *(C)* the availability of Native Hawaiian project funds, research projects and publications;

[(4)] *(D)* the collaboration of research in the area of Native Hawaiian health; and

[(5)] *(E)* the timely dissemination of information pertinent to the Native Hawaiian health care systems.

[(d) COORDINATION OF PROGRAMS AND SERVICES.]

(2) CONSULTATION.—The Secretary shall provide Papa Ola Lokahi and the Office of Hawaiian Affairs at least once annually, an accounting of funds and services provided to States and to nonprofit groups and organizations from the department for the purposes set forth in section 4. Such accounting shall include—

(A) the amount of funds expended explicitly for and benefiting Native Hawaiians;

(B) the number of Native Hawaiians impacted by these funds;

(C) the identification of collaborations made with Native Hawaiian groups and organizations in the expenditure of these funds; and

(D) the amount of funds used for Federal administration purposes and for the provision of direct services to Native Hawaiians.

(d) FISCAL ALLOCATION AND COORDINATION OF PROGRAMS AND SERVICES.—

(1) RECOMMENDATIONS.—Papa Ola Lokahi shall provide annual recommendations to the Secretary with respect to the allocation of all amounts appropriated under this Act.

(2) COORDINATION.—Papa Ola Lokahi shall, to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians.

(3) REPRESENTATION ON COMMISSION.—The Secretary, in consultation with Papa Ola Lokahi, shall make recommendations for Native Hawaiian representation on the President's Advisory Commission on Asian Americans and Pacific Islanders.

(e) TECHNICAL SUPPORT.—Papa Ola Lokahi shall act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems *and to Native Hawaiian Health Centers.*

(f) RELATIONSHIPS WITH OTHER AGENCIES.—

(1) AUTHORITY.—Papa Ola Lokahi [is authorized to] *may* enter into agreements or memoranda of understanding with relevant *institutions,* agencies, or organizations that are capable of providing *health-related* resources or services to *Native Hawaiians and* the Native Hawaiian health care systems *or of providing resources or services for the implementation of the National policy as set forth in section 4.*

(2) HEALTH CARE FINANCING.—

(A) FEDERAL CONSULTATION.—Federal agencies providing health care financing and carrying out health care programs, including the Health Care Financing Administration, shall consult with Native Hawaiians and organizations providing health care services to Native Hawaiians prior to the adoption of any policy or regulation that may impact on the provision of service or health insurance coverage. Such consultation shall include the identification of the impact of any proposed policy, rule, or regulation.

(B) STATE CONSULTATION.—The State of Hawai'i shall engage in meaningful consultation with Native Hawaiians and organizations providing health care services to Native Hawaiians in the State of Hawai'i prior to making any changes or initiating new programs.

(C) CONSULTATION ON FEDERAL HEALTH INSURANCE PROGRAMS.—

(i) The Office of Hawaiian Affairs, in collaboration with Papa Ola Lokahi, may develop consultative, contractual or other arrangements including memoranda of understanding or agreement, with—

(I) the Health Care Financing Administration

(II) the agency of the State of Hawai'i that administers or supervises the administration of the State plan or waiver approved under titles XVIII, XIX, or XII of the Social Security Act for the payment of all or part of the health care services provided to Native Hawaiians who are eligible for medical assistance under the State plan or waiver; or

(III) any other Federal agency or agencies providing full or partial health insurance to Native Hawaiians.

(ii) Such arrangements may address—

(I) appropriate reimbursement for health care services including capitation rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance;

(II) the scope of services; or

(iii) other matters that would enable Native Hawaiians to maximize health insurance benefits provided by Federal and State health insurance programs.

(3) TRADITIONAL HEALERS.—The provision of health services under any program operated by the Department of another Federal agency including Department of Veterans Affairs, may include the services of "traditional Native Hawaiian healers" as defined in this Act or "traditional healers" providing "traditional health care practices" as defined in section 4(r) of Public Law 94–437. Such services shall be exempt from national accreditation reviews, including reviews conducted by the Joint Accreditation Commission on Health Organizations and the Rehabilitation Accreditation Commission.

§ 11705. Native Hawaiian health care [systems]

(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—

[(A)] *(1) GRANTS AND CONTRACTS.*—The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians *who desire and are committed to bettering their own health.*

[(B)] *(2) PREFERENCE.*—In making grants and entering into contracts under this [paragraph] *subsection*, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

(3) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of paragraph (1) if the entity is a Native Hawaiian health care system or a Native Hawaiian Health Center.

(4) LIMITATION ON NUMBER OF ENTITIES.—The Secretary may make a grant to, or enter into a contract with, not more than 8 Native Hawaiian health care systems under this subsection during any fiscal year.

[2] *(b) PLANNING GRANT OR CONTRACT.*—In addition to [paragraph (1)] *grants and contracts under subsection (a)*, the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawai'i.

[(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) of this section if the entity is a Native Hawaiian health care system.]

(c) SERVICES TO BE PROVIDED.—

(1) *IN GENERAL.*—Each recipient of funds under subsection (a)[(1)] of this section shall [provide the following services:] *ensure that* the following services either are provided or arranged for:

(A) Outreach services to inform Native Hawaiians of the availability of health services;

(B) Education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators;

(C) Services of physicians, physicians' assistants, nurse practitioners or other health professionals;

(D) Immunizations;

(E) Prevention and control of diabetes, high blood pressure, and otitis media;

(F) Pregnancy and infant care; [and]

(G) Improvement of nutrition[.];

[(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1) of this section:]

[(A)] *(H)* Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians;

[(B)] *(I)* Collection of data related to the prevention of diseases and illnesses among Native Hawaiians; [and]

[(C)] *(J)* Services within the meaning of the terms "health promotion", "disease prevention", and "primary health services", as such terms are defined in section [11711] *3* of this title, which are not specifically referred to in [paragraph (1) of this] subsection *(a); and*

(K) Support of culturally appropriate activities enhancing health and wellness including land-based, water-based, ocean-based, and spiritually-based projects and programs.

[(3)] *(2) TRADITIONAL HEALERS.*—The health care services referred to in [paragraphs (1) and (2)] *paragraph (1)* which are provided under grants or contracts under subsection (a)[(1)] of this section may be provided by traditional Native Hawaiian healers.

[(d) LIMITATION OF NUMBER OF ENTITIES.—]

(d) FEDERAL TORT CLAIMS ACT.—Individuals that provide medical, dental, or other services referred to in subsection (a)(1) for Native Hawaiian health care systems, including providers of traditional Native Hawaiian healing services, shall be treated as if such individuals were members of the Public Health Service and shall be

covered under the provisions of section 224 of the Public Health Service Act.

(3) SITE FOR OTHER FEDERAL PAYMENTS.—A Native Hawaiian health care system that receives funds under subsection (a) shall provide a designated area and appropriate staff to serve as a Federal loan repayment facility. Such facility shall be designed to enable health and allied-health professionals to remit payments with respect to loans provided to such professionals under any Federal loan program.

[During an fiscal year, the Secretary under this chapter may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.

[(e) MATCHING FUNDS.—

[(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) of this section to a Native Hawaiian health care system—

[(A) in an amount exceeding 83.3 percent of the costs of providing health services under the grant or contract; and

[(B) unless the Native Hawaiian health care system agrees that the Native Hawaiian health care system or the State of Hawai'i will make available, directly or through donations to the Native Hawaiian health care system, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2) for each $5 of Federal funds provided in such grant or contract.

[(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amount provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

[(3) The Secretary may waive the requirement established in paragraph (1) if—

[(A) the Native Hawaiian health care system involved is a nonprofit private entity described in subsection (b) of this section; and

[(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the Native Hawaiian health care system to comply with such requirement.]

(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, any entity under subsection (a)(1) of this section unless the entity agrees that, amounts received pursuant to such subsection will not, directly or through contract, be expended—

(1) for any purpose other than the purposes described in subsection (c) [of this section] *(1)*;

[(2) to provide inpatient services;

[(3) to make cash payments to intended recipients of health services;] or

[(4)] *(2)* to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, [any] *an* entity under subsection (a) [(1) of this section] unless the entity agrees that, whether health services are provided directly or through contract—

(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

(2) the entity will impose a charge for the delivery of health services, and such charge—

(A) will be made according to a schedule of charges that is made available to the public, and

(B) will be adjusted to reflect the income of the individual involved.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) *GENERAL GRANTS.*—There [are] *is* authorized to be appropriated such sums as may be necessary for fiscal years [1993] *2002* through [2001] *2006* to carry out subsection (a) [(1) of this section].

(2) *PLANNING GRANTS.*—There [are] *is* authorized to be appropriated such sums as may be necessary *for each of fiscal years 2002 through 2006* to carry out subsection [(a)(2) of this section] (*b*).

§ 11706. Administrative grant for Papa Ola Lokahi

(a) IN GENERAL.—In addition to any other grant or contract under this [chapter] *Act,* the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section [11703 of this title] *5*;

(2) training for the persons described in section [11705(c)(1)(B) of this title] *7(c)(1)*;

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, [epidemiological] *epidemiologic,* and health services;

(4) the [development] *maintenance* of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this [chapter] *Act;*

(5) a clearinghouse function for—

(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

(B) the identification and research into diseases affecting Native Hawaiians; and

(C) the availability of Native Hawaiian project funds, research projects and publications;

(6) the establishment and maintenance of an institutional review board for all health-related research involving Native Hawaiians;

[6] (*7*) the coordination of the health care programs and services provided to Native Hawaiians; and

[7] (*8*) the administration of special project funds.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years [1993] *2002* through [2001] *2006* to carry out subsection (a) [of this section].

§ 11707. Administration of grants and contracts

(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this [chapter] *Act* such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this [chapter] *Act*.

(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this [chapter] *Act* with an entity unless the entity—

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

(B) has designated at least [one] *1* individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered [in the plan of the State of Hawai'i approved] *under programs* under titles *XVII*, XIX, *or XXI* of the Social Security Act, [42 U.S.C.A. § 1396 et seq.] *including any State plan, or under any other Federal health insurance plan*—

(A) if the entity will provide under the grant or contract any such health services directly—

(i) the entity had entered into a participation agreement under such plans; and

(ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

(i) the organization has entered into a participation agreement under such plan; and

(ii) the organizaiton is qualified to receive payments under such plan; and

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the [utilization] *use* and costs

of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

(d) CONTRACT EVALUATION.—

(1) *DETERMINATION OF NONCOMPLIANCE.*—If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section [11705 of this title] *7*, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance.

(*2*) *NONRENEWAL.*—If the Secretary determines that [such] *the* noncompliance or unsatisfactory performance *described in paragraph (1) with respect to an entity* cannot be resolved and prevented in the future, the Secretary shall not renew [such] *the* contract with such entity and [is authorized to] *may* enter into a contract under section [11705 of this title] *7* with another entity referred to in [section 11705(b)] *subsection (a)(3)* of [this title] *such section* that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this [subsection] *paragraph*.

[(2)] *(3) CONSIDERATION OF RESULTS.*—In determining whether to renew a contract entered into with an entity under this [chapter] *Act,* the Secretary shall consider the results of the [evaluation] *evaluations conducted* under this section.

[(3)] *(4) APPLICATION OF FEDERAL LAWS.*—All contracts entered into by the Secretary under this [chapter] *Act* shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

[(4)] *(5)* Payments made under any contract entered into under this [chapter] *Act* may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this [chapter] *Act.*

(e) [LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES] *REPORT.*—[Except for grants and contracts under section 11706 of this title, the Secretary may not grant to, or enter into a contract with, an entity under this chapter unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this chapter for the purpose of administering the grant or contract.

[(f) REPORT.—]

(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this [chapter] *Act,* such entity shall submit to the Secretary and to Papa Ola Lokahi [a quarterly] *an annual* report [on]—

(A) *on the* activities conducted by the entity under the grant or contract;

(B) *on* the amounts and purposes for which Federal funds were expended; and

(C) *containing* such other information as the Secretary may request.

(2) *AUDIT.*—The reports and records of any entity [which concern] *concerning* any grant or contract under this [chapter] *Act* shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

[(g)] *(f)* ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this [chapter] *Act* the cost of an annual private audit conducted by a certified public accountant.

§ 11708. Assignment of personnel

(a) IN GENERAL.—The Secretary [is authorized to] *may* enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under [the authority of] subsection (a) [of this section] shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of Title 5 United States Code.

§ 11709. Native Hawaiian health scholarships *and Fellowships*

(a) ELIGIBILITY.—Subject to the availability of [funds] *amounts* appropriated under [the authority of] subsection (c) [of this section,] the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha Schools [/Bishop Estate] *or another Native Hawaiian organization or health care organization with experience in the administration of educational scholarships or placement services* for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section [2541 of this title,] *338A of the Public Health Service Act (42 U.S.C. 2541), except for assistance as provided for under subsection (b)(2);* and

(2) are Native Hawaiians.

(b) PRIORITY.—A priority for scholarships may be provided to employees of the Native Hawaiian Health Care Systems and the Native Hawaiian Health Centers.

[(b)] *(c)* TERMS AND CONDITIONS.—

(1) *IN GENERAL.*—The scholarship assistance [provided] under subsection (a) [of this section] shall be provided under the same terms and subject to the same conditions, regulations, and rules [that] *as* apply to scholarship assistance provided under section [2541 of this title, provided that—] *338A of the Public Health Service Act (42 U.S.C. 2541) (except as provided for in paragraph (2)), except that—*

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for

each type of health care professional [identified in the Native Hawaiian comprehensive health care master plan implemented under section 11703 of this title] to serve the Native Hawaiian [health care systems] *Community* as identified by Papa Ola Lokahi;

[(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 11711(8) of this title:]

[(C)] (*B*) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools [/ Bishop Estate] *or the Native Hawaiian organization administering the program;*

[(D)] (*C*) the obligated service requirement for each scholarship recipient *(except for those receiving assistance under paragraph (2))* shall be fulfilled through [the full-time clinical or nonclinical practice of the health profession of the scholarship recipient, in an] *service in* order of priority [that would provide for practice—], *in*—

(i) [first, in] any one of the [five] Native Hawaiian health care systems *or Native Hawaiian Health Centers*;

[I] *(ii)* [a] health [professional] *professions* shortage [area or] *areas*, medically underserved [area located] *areas, or geographic areas or facilities similarly designated by the United States Public Health Service* in the State of Hawai'i; or

[II] *(iii)* a [geographic area or facility that is—

[(aa) located in the State of Hawai'i; and

[(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;] *geographical area, facility, or organization that serves a significant Native Hawaiian population*;

(D) the scholarship's placement services shall assign scholarship recipients to appropriate sites for service;

[(aa) located in the State of Hawai'i; and

[(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;]

(E) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs;

(F) [the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps; and] *financial assistance may be provided to scholarship recipients in those health professions designated in such section 338A of the Public Health Service Act (42 U.S.C. 2541) while they are fulfilling their service requirement in any one of the Native*

Hawaiian health care systems or Native Hawaiian Health Centers.

(2) FELLOWSHIPS.—Financial assistance through fellowships may be provided to Native Hawaiian community health representatives, outreach workers, and health program administrators in professional training programs, and to Native Hawaiians in certificated programs provided by traditional Native Hawaiian healers in any of the traditional Native Hawaiian healing practices including lomi-lomi, la'au lapa'au, and ho'oponopono. Such assistance may include a stipend or reimbursement for costs associated with participation in the program.

(3) RIGHTS AND BENEFITS.—Scholarship recipients in health professions designated in section 338A of the Public Health Service Act while fulfilling their service requirements shall have all the same rights and benefits of members of the National Health Service Corps during their period of service.

(4) NO INCLUSION OF ASSISTANCE IN GROSS INCOME.—Financial assistance provided under section 11 of this Act shall be deemed "Qualified Scholarships" for purposes of 26 U.S.C. Section 117.

[(G) the requirements of sections 254d through 254k of this title, section 254m of this title, other than subsection (b)(5) of that section, and section 254n of this title applicable to scholarship assistance provided under subsection (a) of this section.

[(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.]

[(c)] *(d)* AUTHORIZATION OF APPROPRIATIONS.—There [are] *is* authorized to be appropriated such sums as may be necessary for fiscal years [1993] *2002* through [2001] *2006* for the purpose of funding the scholarship assistance [provided] *program* under subsection (a) [of this section] *and fellowship assistance under subsection (c)(2).*

§ 11710. Report

The President shall, at the time the budget is submitted under section 1105 of Title 31, *United States Code,* for each fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this [chapter] *Act,* including a review of programs established or assisted pursuant to this chapter and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

SEC. 13. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

(a) IN GENERAL.—The Secretary shall permit organizations that receive contracts or grants under this Act, in carrying out such contracts or grants, to use existing facilities and all equipment therein or under the jurisdiction of the Secretary under such terms and conditions as may be agreed for the use and maintenance of such facilities or equipment.

(b) DONATION OF PROPERTY.—The Secretary may donate to organizations that receive contracts or grants under this Act any personal or real property determined to be in excess of the needs of the Department or the General Services Administration for purposes of carrying out such contracts or grants.

(c) ACQUISITION OF SURPLUS PROPERTY.—The Secretary may acquire excess or surplus Federal Government personal or real property for donation to organizations that receive contracts or grants under this Act if the Secretary determines that the property is appropriate for the use by the organization for the purpose for which a contract or grant is authorized under this Act.

SEC. 14. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

(a) AUTHORITY AND AREAS OF INTEREST.—The Secretary, in consultation with Papa Ola Lokahi, may allocate amounts appropriated under this Act, or any other Act, to carry out Native Hawaiian demonstration projects of national significance. The areas of interest of such projects may include—

(1) the development of a centralized database and information system relating to the health care status, health care needs, and wellness of Native Hawaiians:

(2) the education of health professionals, and other individuals in institutions of higher learning, in health and allied health programs in healing practices, including Native Hawaiian healing practices;

(3) the integration of Western medicine with complementary healing practices including traditional Native Hawaiian healing practices;

(4) the use of tele-wellness and telecommunications in chronic disease management and health promotion and disease prevention;

(5) the development of appropriate models of health care for Native Hawaiians and other indigenous peoples including the provision of culturally competent health services, related activities focusing on wellness concepts, the development of appropriate kupuna care programs, and the development of financial mechanisms and collaborative relationships leading to universal access to health care; and

(6) the establishment of a Native Hawaiian Center of Excellence for Nursing at the University of Hawai'i at Hilo, a Native Hawaiian Center of Excellence for Mental Health at the University of Hawai'i at Manoa, Native Hawaiian Center of Excellence for Maternal Health and Nutrition at the Waimanalo Health Center, and a Native Hawaiian Center of Excellence for Research, Training, and Integrated Medicine at Moloka'i General Hospital, and a Native Hawaiian Center of Excellence for Complimentary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center.

(b) NONREDUCTION IN OTHER FUNDING.—The allocation of funds for demonstration projects under subsection (a) shall not result in a reduction in funds required by the Native Hawaiian health care systems, the Native Hawaiian Health Centers, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out their respective responsibilities under this Act.

SEC. 15. NATIONAL BIPARTISAN COMMISSION ON NATIVE HAWAIIAN HEALTH CARE ENTITLEMENT.

(a) ESTABLISHMENT.—There is hereby established a National Bipartisan Native Hawaiian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

(b) MEMBERSHIP.—The Commission shall be composed of 21 members to be appointed as follows:

(1) CONGRESSIONAL MEMBERS.—

(A) APPOINTMENT.—Eight members of the Commission shall be members of Congress, of which—

(i) two members shall be from the House of Representatives and shall be appointed by the Majority Leader;

(ii) two members shall be from the House of Representatives and shall be appointed by the Minority Leader;

(iii) two members shall be from the Senate and shall be appointed by the Majority Leader; and

(iv) two members shall be from the Senate and shall be appointed by the Minority Leader.

(B) RELEVANT COMMITTEE MEMBERSHIP.—The members of the Commission appointed under subparagraph (A) shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Native Hawaiians and other Native Americans.

(C) CHAIRPERSON.—The members of the Commission appointed under subparagraph (A) shall elect the chairperson and vice-chairperson of the Commission.

(2) HAWAIIAN HEALTH MEMBERS.—Eleven members of the Commission shall be appointed by Hawaiian health entities, of which—

(A) five members shall be appointed by the Native Hawaiian Health Care Systems;

(B) one member shall be appointed by the Hawai'i State Primary Care Association;

(C) one member shall be appointed by Papa Ola Lokahi;

(D) one member shall be appointed by the Native Hawaiian Health Task Force;

(E) one member shall be appointed by the Office of Hawaiian Affairs; and

(F) two members shall be appointed by the Association of Hawaiian Civic Clubs and shall represent Native Hawaiian populations residing in the continental United States.

(3) SECRETARIAL MEMBERS.—Two members of the Commission shall be appointed by the Secretary and shall possess knowledge of Native Hawaiian health concerns and wellness.

(c) TERMS.—

(1) IN GENERAL.—The members of the Commission shall serve for the life of the Commission.

(2) INITIAL APPOINTMENT OF MEMBERS.—The members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection (b)(1).

(3) Vacancies.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

(d) DUTIES OF THE COMMISSION.—The Commission shall carry out the following duties and functions:

(1) Review and analyze the recommendations of the report of the study committee establishment under paragraph (3).

(2) Make recommendations to Congress for the provision of health services to Native Hawaiian individuals as an entitlement, giving due regard to the effects of a program on existing health care delivery systems for Native Hawaiians and the effect of such programs on self-determination and the reconciliation of their relationship with the United States.

(3) Establish a study committee to be composed of at least 10 members from the Commission, including 4 members of the members appointed under subsection (b)(1), 5 of the members appointed under subsection (b)(2), and 1 of the members appointed by the Secretary under subsection (b)(3), which shall—

(A) to the extent necessary to carry out its duties, collect, compile qualify, and analyze data necessary to understand the extent of Native Hawaiian needs with regard to the provision of health services, including holding hearings and soliciting the views of Native Hawaiians and Native Hawaiian organizations, and which may include authorizing and funding feasibility studies of various models for all Hawaiian beneficiaries and their families, including those that live in the continental United States;

(B) make recommendations to the Commission for legislation that will provide for the culturally-competent and appropriate provision of health services for Native Hawaiians as an entitlement, which shall, at a minimum, address issues of eligibility and benefits to be provided, including recommendations regarding from whom such health services are to be provided and the cost and mechanisms for funding of the health services to be provided;

(C) determine the effect of the enactment of such recommendations on the existing system of delivery of health services for Native Hawaiians;

(D) determine the effect of a health service entitlement program for Native Hawaiian individuals on their self-determination and the reconciliation of their relationship with the United States;

(E) not later than 12 months after the date of the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to Native Hawaiian organizations and agencies and health organizations referred to in subsection (b)(2) for comment to the Commission; and

(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

(4) Not later than 18 months after the date of appointment of members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Native Hawaiians, grounded in their culture, and based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Native Hawaiians and their self-determination and the reconciliation of their relationship with the United States.

(e) ADMINISTRATIVE PROVISIONS.—

(1) COMPENSATION AND EXPENSES.—

(A) CONGRESSIONAL MEMBERS.—Each member of the Commission appointed under subsection (b)(1) shall not receive any additional compensation, allowances, or benefits by reason of their service on the Commission. Such members shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(B) OTHER MEMBERS.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b) shall, while serving on the business of the Commission (including travel time), receive compensation at the per diem equivalent of the rate provided for individuals under level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while serving away from their home or regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission.

(C) OTHER PERSONNEL.—For purposes of compensation (other than compensation of the members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the Senate.

(2) MEETINGS AND QUORUM.—

(A) MEETINGS.—The Commission shall meet at the call of the chairperson.

(B) QUORUM.—A quorum of the Commission shall consist of not less than 12 members, of which—

(i) not less than 4 of such members shall be appointees under subsection (b)(1);

(ii) not less than 7 of such members shall be appointees under subsection (b)(2); and

(iii) not less than 1 of such members shall be an appointee under subsection (b)(3).

(3) DIRECTOR AND STAFF.—

(A) EXECUTIVE DIRECTOR.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that under level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

(C) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(D) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(E) FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operations of the Commission in Washington, D.C. and in the State of Hawai'i. The Washington, D.C. facilities shall serve as the headquarters of the Commission while the Hawai'i office shall serve a liaison function. Both such offices shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(f) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For purposes of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 8 hearings shall be held on each of the Hawaiian Islands and 3 hearings in the continental United States in areas where a significant population of Native Hawaiians reside. Such hearings shall be held to solicit the views of Native Hawaiians regarding the delivery of health care services to such individuals. To constitute a hearing under this paragraph, at least 4 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under subsection (d)(3) may be counted towards the number of hearings required under this paragraph.

(2) STUDIES BY THE GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES.—

(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Attorney of the Centers for Medicare and Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying

out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employees.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of any Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section. The amount appropriated under this subsection shall not result in a reduction in any other appropriation for health care or health services for Native Hawaiians.

SEC. 16. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to restrict the authority of the State of Hawai'i to license health practitioners.

SEC. 17. COMPLIANCE WITH BUDGET ACT.

Any new spending authority (described in subparagraph (A) of (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)(A) or (B))) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided for in appropriation Acts.

SEC. 18. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

§ 11711. Definitions

For purposes of this chapter.

(1) DEPARTMENT.—The term "department" means the Department of Health and Human Services.

[(1)**]** *(2)* DISEASE PREVENTION.—The term "disease prevention" includes—

(A) immunizations,
(B) control of high blood pressure,
(C) control of sexually transmittable diseases,
(D) prevention and control of diabetes,
(E) control of toxic agents,
(F) occupational safety and health,
(G) accident prevention,
(H) fluoridation of water,
(I) control of infectious agents, and
(J) provision of mental health care.

[(2)] *(3)* HEALTH PROMOTION.—The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
(B) cessation of tobacco smoking,
(C) reduction in the misuse of alcohol and *harmful illicit* drugs,
(D) improvement of nutrition,
(E) improvement in physical fitness,
(F) family planning, and
(G) control of stress.
(H) reduction of major behavioral risk factors and promotion of health lifestyle practices; and
(I) integration of cultural approaches to health and well-being, including traditional practices relating to the atmosphere (lewa lani), land ('aina), water (wai), and ocean (kai).

[(3)] *(4)* NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who is *Kanaka Maoli (a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i) as evidenced by—*

(A) [a citizen of the United States, and] genealogical records;
(B) [a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i, as evidenced by—] *kama 'aina witness verification from Native Hawaiian Kupuna (elders); or*
[(i) genealogical records,
[(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or
[(iii)] *(C)* birth records of the State of Hawai'i *or any State or territory of the United States.*

[(4)] *(5)* NATIVE HAWAIIAN HEALTH [CENTER] *CARE SYSTEM.*—The term "Native Hawaiian health [center] *care system*" means an entity—

(A) which is organized under the laws of the State of Hawai'i;
(B) which provides or arranges for health care services through practitioners licensed by the State of Hawai'i, where licensure requirements are applicable;
(C) which is a public or nonprofit private entity; [and]
(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health *care services;*

(E) which are established to meet the health care needs of each island's Native Hawaiians; and

(F) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting or administering programs, or portions of programs, authorized by this chapter for the benefit of Native Hawaiians; and

(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization [enters into with, or grant] receives from the Secretary pursuant to this Act.

[(5)] *(6)* [NATIVE HAWAIIAN ORGANIZATION] *NATIVE HAWAIIAN HEALTH CENTER.*—The term "Native Hawaiian [organization"] *Health Center* "means any [organization] *any organization that is primary care provider and that—*

(A) [which serves the interests of Native Hawaiians,] *has a governing board that is composed of individuals, at least 50 percent of whom are Native Hawaiians;*

(B) [which is—] *has demonstrated cultural competency in a predominately Native Hawaiian community;*

(C) services a patient population that—

(i) [recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this chapter for the benefit of Native Hawaiians, and] *is made up of individuals at least 50 percent of whom are Native Hawaiian; or*

(ii) [certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this chapter,] *has not less that 2,500 Native Hawaiians as annual users of services; and*

[(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and]

(D) [which is a public or nonprofit private entity.] *is recognized by Papa Ola Lokahi has having met all the criteria of this paragraph.*

[(6)] *(7)* NATIVE HAWAIIAN HEALTH [CARE SYSTEM—] *TASK FORCE.*—The term "Native Hawaiian health [care system] Task Force" means [an entity—] *a task force established by the State Council of Hawaiian Homestead Associations to implement health and wellness strategies in Native Hawaiian communities.*

[(A) which is organized under the laws of the State of Hawai'i,

[(B) which provides or arranges for health care services through practitioners licensed by the State of Hawai'i, where licensure requirements are applicable,

[(C) which is a public or nonprofit private entity,

[(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services,

[(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of each Island's Native Hawaiians, and

[(F) which is—

[(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this chapter for the benefit of Native Hawaiians, and

[(ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this chapter.

[(7)] *(8)* [PAPA OLA LOKAHI—] *NATIVE HAWAIIAN ORGANIZATION.*—The term "Native Hawaiian organization" means any organization—

(A) [The term "Papa Ola Lokahi" means an organization composed of—] *which serves the interests of Native Hawaiians; and*

[(i) E Ola Mau;

[(ii) the Office of Hawaiian Affairs of the State of Hawai'i;

[(iii) Alu Like Inc.;

[(iv) the University of Hawai'i;

[(v) the Office of Hawaiian Health of the Hawai'i State Department of Health;

[(vi) Ho'ola Lahui Hawai'i, or a health care system serving the islands of Kaua'i and Ni'ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

[(vii) Ke Ola Mamo, or a health care system serving the island of O'ahu, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

[(viii) Na Pu'uwai or a health care system serving the islands of Moloka'i and Lana'i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

[(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

[(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawai'i, and which may be composed of as many health care centers as are nec-

essary to meet the health care needs of the Native Hawaiians of that island; and

[(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this chapter, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this chapter, and an estimated budget.]

(B) [Such term does not include any such organization identified in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.] *which is—*

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians; and

(ii) a public or non profit private entity.

[(8)] *(9)* [PRIMARY HEALTH SERVICES] *OFFICE OF HAWAIIAN AFFAIRS.—The terms 'Office of Hawaiian Affairs' and 'OHA' mean the governmental entity established under Article XII, sections 5 and 6 of the Hawai'i State Constitution and charged with the responsibility to formulate policy relating to the affairs of Native Hawaiians.*

[The term "primary health services" means—]

[(A) services of physicians, physicians' assistants, nurse practitioners, and other health professionals;

[(B) diagnostic laboratory and radiologic services;

[(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

[(D) emergency medical services;

[(E) transportation services as required for adequate patient care;

[(F) preventive dental services; and

[(G) pharmaceutical service, as may be appropriate for particular health centers.

[(9)] *(10)* [SECRETARY] *PAPA OLA LOKAHI.*—[The term "Secretary" means the Secretary of Health and Human Services.]

(A) IN GENERAL.—The term 'Papa Ola Lokahi' means an organization that is composed of public agencies and private organizations focusing on improving the health status of Native Hawaiians. Board members of such organization may include representation from—

(i) E Ola Mau;

(ii) the Office of Hawaiian Affairs of the State of Hawai'i;

(iii) Alu Like, Inc.;

(iv) the University of Hawai'i

(v) the Hawai'i State Department of Health;

(vi) the Kamehameha Schools, or other Native Hawaiian organization responsible for the administration of the Native Hawaiian Health Scholarship Program;

(vii) the Hawai'i State Primary Care Association, or Native Hawaiian Health Centers whose patient populations are predominantly Native Hawaiian;

(viii) Ahahui O Na Kauka, the Native Hawaiian Physicians Association;

(ix) Ho'ola Lahui Hawai'i, or a health care system serving the islands of Kaua'i or Ni'ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

(x) Ke Ola Mamo, or a health care system serving the island of O'ahu and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

(xi) Na Pu'uwai or a health care system serving the islands of Moloka'i or Lana'i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

(xii) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

(xiii) Hui Malama Ola Na 'Oiwi, or a health care system serving the island of Hawai'i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

(xiv) other Native Hawaiian health care systems as certified and recognized by Papa Ola Lokahi in according with this Act; and

(xv) such other member organizations as the Board of Papa Ola Lokahi will admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians.

(B) LIMITATION.—Such term does not include any organization described in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, the national policy as set forth in section 4, and an action plan for carrying out those goals and objectives.

[(10)**]** *(11)* **[**TRADITIONAL NATIVE HAWAIIAN HEALER—**]** PRIMARY HEALTH SERVICES.—*The term "primary health services" means.*—**[**The term "traditional Native Hawaiian healer" means a practitioner—**]**

(A) [who—] *services of physicians, physicians' assistants, nurse practitioners, and other health professionals;*

[(i) is of Hawaiian ancestry, and

[(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and]

(B) [whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—] *diagnostic laboratory and radiologic services;*

[(i) direct practical association with Native Hawaiian elders, and

[(ii) oral traditions transmitted from generation to generation.]

(C) preventive health services including perinatal services, well child services, family planning services, nutrition services, home health services, and, generally, all those services associated with enhanced health and wellness;

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services;

(G) pharmaceutical and medicament services;

(H) primary care services that may lead to speciality or tertiary care; and

(I) complimentary healing practices, including those performed by traditional Native Hawaiian healers.

(12) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(13) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Native Hawaiian ancestry; and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals; and

(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders; and

(ii) oral traditions transmitted from generation to generation.

§ 11712. Rule of construction

Nothing in this chapter shall be construed to restrict the authority of the State of Hawai'i to license health practitioners.

§ 11713. Compliance with Budget Act

Any new spending authority (described in [subsection (c)(2)] *subparagraph* (A) [of] *or* (B) of section [651] *401(c)(2)* of [Title 2)] *the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2) (A) or (B))* which is provided under this [chapter] *Act* shall be effective for any fiscal year only to such extent or in such amounts as are provided *for* in appropriation Acts.

§ 11714. Severability

If any provision of this chapter, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this [chapter] *Act,* and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

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